



North Tyneside Council

Cabinet

14 January 2022

Monday, 24 January 2022 The Chamber, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY. **commencing at 6.00 pm.**

Agenda Item	Page(s)
1. Apologies for Absence	
To receive apologies for absence from the meeting.	
2. To Receive any Declarations of Interest and Notification of any Dispensations Granted	
You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.	
You are also invited to disclose any dispensation in relation to any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	
Please complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.	
3. Minutes	
To confirm the minutes of the meeting held on 29 November 2021 (previously circulated).	
4. Report of the Young Mayor	

Members of the public are welcome to attend this meeting and receive information about it.

North Tyneside Council wants to make it easier for you to get hold of the information you need. We are able to provide our documents in alternative formats including Braille, audiotape, large print and alternative languages.

For further information about the meeting please call (0191) 643 5320.

Agenda Item	Page(s)
To receive a verbal report on the latest activities of the Young Mayor and Young Cabinet.	
5. 2021/22 Financial Management Report to 30 November 2021	5 - 78
To receive the fourth budget monitoring report for the current financial year which reflects the indication of the potential revenue and capital position of the Authority at 31 March 2022.	
6. Calculation of the 2022/23 Council Tax Base for North Tyneside Council	79 - 90
To consider a report which gives an explanation of how the North Tyneside Council Tax Base for 2022/23 has been calculated and requests approval for the calculation of the Authority's Council Tax Base for 2022/23.	
7. Care Home fees and procurement arrangements	91 - 272
To seek approval for the fee levels for older person's care homes from April 2019, together with the associated fee increases in April 2020 and April 2021; and the commencement of a procurement exercise with all in borough older person's care homes in line with the requirements set out in the report.	
8. Review of North Tyneside's Tree Management Policy	273 - 324
To consider a report seeking approval to adopt North Tyneside's revised Tree Management Policy and new Tree Planting Strategy.	
9. Review of North Tyneside Council Lettings Policy	325 - 386
To seek approval of the reviewed North Tyneside Council Lettings Policy.	
10. Review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy	387 - 500
To seek approval for a process of public engagement to be undertaken on the proposed updated North Tyneside Hackney Carriage and Private Hire Licensing Policy; and at the conclusion of the consultation period the draft Policy to be brought before Cabinet for its consideration.	
11. Compulsory Purchase Order (CPO) in Respect of Land at former Tyne Brand Factory, North Shields	501 - 510

To consider a report which outlines the Compulsory Purchase Order proposal in respect of the various land interests at Tyne Brand, North Shields. Those interests are within the area shown by the dark outline plan attached as Appendix 1 (the "Order Land").

12. Exclusion Resolution

This is to give further notice in accordance with paragraphs 5(4) and 5(5) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 of the intention to consider items (13) and (14) below in private.

Cabinet is requested to consider passing the following resolution:

Resolved that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 3 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

Reasons for taking the items in private: The reports in items (13) and (14) below contain information relating to the financial or business affairs of any particular person (including the authority holding the information).

13. 0.86 of a Hectare of Land at Sandy Lane, Wideopen**511 - 518**

To consider a report seeking approval to declare 0.86 hectares of land at the east end of Sandy Lane in Wideopen, surplus to the Authority's requirements and to make it available for freehold sale, for the development of a new supermarket.

14. Centurion Park Golf Club, Wallsend**519 - 528**

To consider a report seeking approval to proposals to secure a significant amount of investment in Centurion Park Golf Club.

15. Date and Time of Next Meetings

Monday 31 January 2022 at 6.00pm (Extraordinary Meeting)
Monday 7 February 2022 at 6.00pm (Extraordinary meeting)

Monday 21 February 2022 at 6.00pm (Ordinary Meeting)

Circulation overleaf ...

Circulated to Members of Cabinet: -

N Redfearn (Elected Mayor)
Councillor C Johnson (Deputy Mayor)
Councillor C Burdis
Councillor K Clark
Councillor S Cox
Councillor S Day
Councillor P Earley
Councillor S Graham
Councillor A McMullen
Councillor M Rankin

**Young and Older People's Representatives and Partners of
North Tyneside Council.**

North Tyneside Council Report to Cabinet 24 January 2022

Title: 2021/22 Financial Management Report to 30 November 2021

Portfolios: Elected Mayor Finance and Resources	Cabinet Member: Norma Redfearn Councillor Martin Rankin
Report from: Finance	
Responsible Officer: Janice Gillespie, Director of Resources	Tel: 0191 643 5701
Wards affected: All	

PART 1

1.1 Executive Summary:

This report is the fourth monitoring report to Cabinet on the 2021/22 financial position. The report brings together financial and performance information with the intention of explaining the current financial position in the context of the policy priorities in the Our North Tyneside Plan. It provides the latest indication of the potential revenue and capital position of the Authority for 31 March 2022.

- 1.1.1 As reported previously, the Authority continues to feel the impact of the on-going Covid-19 pandemic and as such this report includes consideration of the potential financial impact that the pandemic has had, and will continue to have, on the Authority during the 2021/22 financial year.
- 1.1.2 The projected outturn position, as at 30 November, is estimated at £5.247m against the approved net budget. This is made up of a forecast pressure of £1.306m on normal activities and £3.941m relating to the impact of Covid-19. The business-as-usual position is comparable with this stage of previous financial years and it is anticipated that the overall in-year pressures of this nature will be managed by the Services. The financial impact of Covid-19, although a small improvement on previous months, is still having a significant bearing on the overall pressure faced by the Authority. The situation may well worsen again, due to the recent emergence of the new Omicron variant of Covid-19 and the impact that is already beginning to have nationally.
- 1.1.3 The Authority has had £40.417m of grants funding available in 2021/22 to support residents, businesses, schools and care homes and as at the end of November 2021,

£20.796m has been allocated with the remaining balance fully committed. In addition, the Authority has a further £8.596m of grant funding available to support services, £7.261m of Local Authority Support Grant and an estimate of £1.335m in relation to lost Sales, Fees and Charges income for April 2021 to June 2021. The total financial impact on services as a result of Covid-19 is forecast to be additional pressures of £19.318m, which leaves a net pressure of £3.941m following allocation of the £8.596m and £6.781m utilised from the sector specific grants outlined above.

- 1.1.4 The previous report outlined how the Authority is managing financial risks while trying to ensure the priorities set out by the Mayor and Cabinet are achieved. Section 10 of this report provides a further update on the work that has taken place since the pandemic began to support residents and also highlights the key work that will take place in the future to ensure residents stay safe as the country learns to live alongside the virus.
- 1.1.5 The Authority is also exploring a range of projects it can support using the Household Support Grant (£1.610m), including support for the Welfare Provision Team, support for care leavers, support for housing costs, support to reduce fuel poverty and support for clothing and school uniforms.
- 1.1.6 The report includes details of any additional grants received by the Authority since the previous Budget Monitoring report to 30 September 2021. The report advises Cabinet of the position so far on the 2021/22 Schools budgets, School's funding and the forecast outturn for the Housing Revenue Account as at 30 November 2021. The report also provides an update on the 2021/22 Investment Plan, including delivery so far this year, along with details of variations and reprofiling of the Investment Plan, which are presented to Cabinet for approval.

1.2 Recommendations:

It is recommended that Cabinet:

- (a) notes the forecast budget monitoring position for the General Fund, Schools' Finance and Housing Revenue Account (HRA) as at 30 November 2021 (Annex sections 1, 5, 6 and 7);
- (b) approves the receipt of £4.805m new revenue grants (outlined in Annex section 3);
- (c) notes the Authority's Investment Plan spend of £31.772m to 30 November 2021 and the financing of the Plan to the end of the year (Annex section 8); and
- (d) approves variations of £4.028m (£0.031m for 2021/22) and reprogramming of (£6.134m) for 2021/22 within the 2021-2026 Investment Plan (Annex section 8).

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 1 October 2021.

1.4 Authority Plan and Policy Framework:

The budget is a key strand of the Authority's Budget and Policy Framework.

1.5 Information:

1.5.1 Financial Position

This report is the fourth monitoring report presented to Members on the Authority's 2021/22 financial position. It provides an indication of the expected revenue and capital financial position of the Authority as at 31 March 2022. This report is an interim view and it is expected this will change over the coming months as the recovery from Covid-19 continues.

The report covers:

- The forecast outturn of the Authority's General Fund and HRA revenue budget including management mitigations where issues have been identified;
- The delivery of 2021/22 approved budget savings plans; and
- An update on the Capital Investment Plan, including details of variations and reprogramming, that is recommended for approval.

1.5.2 General Fund Revenue Account

The budget for 2021/22 was approved by full Council at its meeting on the 18 February 2021. The net General Fund revenue budget was set at £150.154m. This included £4.537m of savings to be achieved, all of which had been identified in previous years.

The forecast overall pressure is estimated at £5.247m against the approved net budget. This is made up of a forecast pressure of £1.306m on normal activities and £3.941m relating to the impact of Covid-19. The pressure on normal activities in the services is driven mainly by Health, Education, Care and Safeguarding at £7.284m, reflecting the continued pressures in Children's Services, partly mitigated by the contingency balances that were created by Cabinet as part of the 2018/19 budget setting process and continue to be held centrally to reflect the on-going pressures in social care being felt locally and nationally.

Included in this projection is £5.097m of pressures in Corporate Parenting and Placements, and £1.564m in Integrated Disability & Additional Needs. The drivers for these pressures continue from 2020/21 and arise from:

- Continued growth in demand in Children's Social Care Services;
- Growth in numbers of children with Education and Health Care Plans;
- The timing of delivery of some aspects of the Efficiency Savings Programme to the extent that achievement of some savings may be at risk; and,
- Increases in staffing costs.

It is anticipated that the outturn forecast for normal activities will improve over the course of the financial year as planned remedial actions begin to impact on both expenditure and income.

With regards to the impact of Covid-19, the main drivers behind the £19.318m impact on services are also within Health, Education, Care and Safeguarding where £12.037m is for increased costs to the Authority. Significant Covid-19 related pressures also exist in Environment, Housing and Leisure (£3.850m) and in Commissioning & Asset Management (£2.528m).

1.5.3 New Revenue Grants

The following revenue grants have been received during October and November 2021:

Service	Grant Provider	Grant	Purpose	2021/22 value £m
Resources	Department for Work and Pensions	Household Support Grant	To support households in need with their essential living costs	1.610
Commissioning and Asset Management	Education and Skills Funding Agency	Teachers Pay Grant	Funding for schools to support the teachers' pay award	0.156
Commissioning and Asset Management	Education and Skills Funding Agency	Teachers Pensions Employer Contribution Grant	Funding for schools to support increase in employer contributions to the pension scheme	0.441
Commissioning and Asset Management	Education and Skills Funding Agency	School Improvement Monitoring and Brokering Grant	Funding to support local authorities to monitor school performance and broker school improvement	0.255
Commissioning and Asset Management	Education and Skills Funding Agency	Primary PE and Sport Premium	Funding passported to schools to improve PE and to support healthy lifestyles	0.615
Commissioning and Asset Management	Education and Skills Funding Agency	Summer Schools	To support the provision of summer schools	0.108
Health Education Care and Safeguarding	Department of Health and Social Care	Workforce Recruitment and Retention	To provide support for addressing workforce recruitment and retention in social care	0.698
Health Education Care and Safeguarding	UNITAS	Autumn Arts College	To support the provision of an Autumn Arts College in North Tyneside	0.010
Health Education Care and Safeguarding	Youth Justice Board	Youth Justice Good Practice Grant	To support reduction in youth offending	0.004

Service	Grant Provider	Grant	Purpose	2021/22 value £m
Central Items	Department for Education	Covid-19 mass testing for schools and colleges	To support mass testing in schools and colleges (Aug and Sept)	0.098
Central Items	Department for Education	Covid-19 Recovery Fund	To support Covid recovery	0.412
Central Items	Department for Education	Covid-19 Recovery Fund (Mockingbird element – Fostering Network)	To provide support to foster carers	0.054
Environment Housing and Leisure	North of Tyne Combined Authority	North East LEP Energy Accelerator	To carry out a Killingworth District Energy Scheme feasibility study	0.075
Environment Housing and Leisure	North of Tyne Combined Authority	The Morph Trail	Event funding	0.048
Environment Housing and Leisure	North of Tyne Combined Authority	The North Sea Weekender	Event funding	0.036
Environment Housing and Leisure	Department for Food and Rural Affairs	Port Health Transition Fund	Support Port Health costs	0.086
Environment Housing and Leisure	Department for Levelling Up, Housing and Communities	Support for Vulnerable Renters	Support for prevention of eviction and extended notice periods	0.078
Commissioning and Asset Management	European Social Fund (via Department for Work and Pensions)	Step to Employment	To support residents aged 29 and over along a journey into employment or self-employment	0.021
Total				4.805

1.5.4 Schools Funding

The Annex provides an update on the latest position in respect of Schools Funding. Schools are required to submit their rolling three-year budget plan by 31 May each year. The total planned deficit for 2021/22 is £3.902m. Cabinet will be aware that the Authority has been working with schools for a number of years with regard to the long-term strategic issue of surplus secondary places and the associated financial pressures, which continue to be compounded by rising employment costs. The provisional outturn for the year ended 31 March 2021 showed a surplus of £3.721m, which reversed the trend of deficits over the previous few years.

As well as school balances being forecast to reduce overall, some individual schools continue to face significant financial challenges. There are six schools with deficit budget plans for 2021/22, all of which continue to be in deficit following 2019/20.

Cabinet will recall that the High Needs Block ended 2020/21 with a pressure of £8.880m. The latest forecast of the budget position for 2021/22 indicates an anticipated in-year pressure of £3.763m reflecting a further rise in demand for special school places.

1.5.5 Housing Revenue Account (HRA)

The HRA is forecast to have year-end balances at 31 March 2022 of £3.426m, assuming all identified Covid-19 related costs and income shortfalls are covered centrally. These balances are £0.414m higher than budget which was set at £3.012m, due mainly to the impact of the previous year's financial performance, but there is also an in-year estimated underspend of (£0.378m), against an in-year budget of £1.943m.

Universal Credit was fully implemented across North Tyneside on 2 May 2018. As at the end of November 2021, 3,716 North Tyneside Homes tenants had moved on to Universal Credit and a team is working proactively with tenants to minimise arrears. This position will be closely monitored during the year to identify any impacts on the budget position.

1.5.6 Investment Plan

The approved 2021-2026 Investment Plan totals £292.639m (£90.719m 2021/22) and is detailed in table 29 of the Annex. The Annex to this report also sets out in Section 8 delivery progress to date, planned delivery for 2021/22, reprogramming and other variations identified through the Investment Programme governance process.

The monthly monitoring of the Investment Plan has resulted in proposals for variations of £4.028m and reprogramming of (£6.134m) of which more details are set out in Section 8 of the Annex to this report. The revised Investment Plan stands at £87.528m for 2021/22 and to the end of November 2021 spend of £31.772m had been incurred which represents 36.30% of the revised plan.

1.5.7 Performance against Council Plan

The 2021-2025 Our North Tyneside Plan (Council Plan) sets out the overall vision and policy context within which the Financial Plan and Budget are set. The Council Plan, "Building A Better North Tyneside", has five key themes as set out below;

- A caring North Tyneside;
- A secure North Tyneside;
- A family-friendly North Tyneside;
- A caring North Tyneside; and,
- A green North Tyneside.

For each theme there is a set of policy outcomes which the Authority is seeking to deliver; these are detailed in the Council Plan itself. The Authority has plans in place to deliver all elements of the Council Plan and performance against these plans is carefully monitored.

With regards to financial performance against the plan, the area under most financial pressure is Health Education Care and Safeguarding. In common with most local

authorities, and in line with the national picture, North Tyneside has seen costs within adult social care continue to rise. Along with the number of adults supported increasing over the last few financial years, the individual needs of those residents have increased due to people living longer with multiple complex conditions. Supporting those needs requires more intensive packages of care which are more expensive to provide. In addition to older people, younger adults with learning disabilities and physical disabilities are also living longer, often with multiple complex issues.

In Children's Services, good progress continues to be made on engaging with children in the early years of life to ensure that they are ready for school. Safeguarding vulnerable children and maximising their educational attainment remain key priorities.

Over recent years, there has been an increase nationally in demand for children's residential placements but with no corresponding increase in central government funded provision. As such, the levels of looked after children (LAC) and children who require supervision after leaving care continue to generate a significant financial pressure. Data for LAC levels suggest that, whilst fluctuating, there is a general trend of a steady increase in numbers (as per Section 5.2 in the Annex) but there are a wide range of levels of care provided, with more complex cases now being faced.

1.6 Decision Options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet may approve the recommendations at paragraph 1.2 of this report.

Options 2

Cabinet may decide not to approve to recommendations at paragraph 1.2 of this report.

1.7 Reasons for Recommended Option:

Option 1 is recommended for the following reasons:

Cabinet is recommended to agree the proposals set out in section 1.2 of this report as it is important that Cabinet continues to monitor performance against the Budget, especially given the current level of financial pressures faced by the public sector.

1.8 Appendices:

Annex : Financial Management Report to 30 November 2021
Appendix 1: 2021 – 2026 Investment Plan

1.9 Contact Officers:

Janice Gillespie – Corporate Finance matters – Tel. (0191) 643 5701
Claire Emmerson – Corporate Finance and Schools matters – Tel. (0191) 643 8109
David Dunford – Corporate Finance and General Fund matters – Tel. (0191) 643 7027
Cathy Davison – Investment Plan matters - Tel. (0191) 643 5727
Darrell Campbell – Housing Revenue Account matters – Tel. (0191) 643 7052

1.10 Background Information:

The following background papers and research reports have been used in the compilation of this report and are available at the offices of the author:

- (a) Revenue budget 2021/22
https://my.northtyneside.gov.uk/sites/default/files/web-page-related-files/North%20Tyneside%20Revenue%20Budget%202021_22.pdf
- (b) Investment Plan 2021-26
<https://democracy.northtyneside.gov.uk/documents/s5460/Appendix%20D%20i%20-%202021-2026%20Investment%20plan%20-%20FINAL.pdf> (Agenda reports pack - Appendix D(i))
- (c) Reserves and Balances Policy
<https://democracy.northtyneside.gov.uk/documents/s5467/Appendix%20G%20Reserves%20and%20Balances%20Policy%202021-22.pdf> (Agenda reports pack - Appendix G)
- (d) Overview, Scrutiny and Policy Development Performance Report
<https://democracy.northtyneside.gov.uk/documents/s5469/Appendix%20I%20-%20202122%20Report%20of%20the%20Overview%20Scrutiny%20and%20Policy%20Development%20Committee%20Jan%202021.pdf>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources

As this is a financial report, implications are covered in the body of the report. This report will also be presented to the Authority's Finance Sub-Committee at its meeting on 8 February 2022.

2.2 Legal

The Authority has a duty to ensure it can deliver a balanced budget. The Local Government Act 2003 imposes a duty on an authority to monitor its budgets during the year and consider what action to take if a potential deterioration is identified.

2.3 Consultation/Community Engagement

2.3.1 Internal Consultation

Internal consultation has taken place with the Cabinet Member for Finance and Resources, the Elected Mayor, Cabinet Members, the Senior Leadership Team and Senior Finance Officers.

2.3.2 External Consultation / Engagement

The 2021/22 budget was completed after widespread consultation and community engagement in line with the Authority's approved Budget Engagement Strategy.

2.4 Human Rights

The proposals within this report do not have direct implications in respect of the Human Rights Act 1998.

2.5 Equalities and Diversity

There are no direct equalities and diversity implications arising from this report.

2.6 Risk Management

Potential future financial pressures against the Authority are covered in this report and registered through the Authority's risk management process.

2.7 Crime and Disorder

There are no direct crime and disorder implications arising from this report.

2.8 Environment and Sustainability

There are no direct environmental and sustainability implications arising from this report.

PART 3 - SIGN OFF

- Chief Executive
- Director of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Assistant Chief Executive

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2021/22 Financial Management Report Annex

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SECTION 1 - GENERAL FUND SUMMARY

1 General Fund Revenue Forecast

- 1.1 This report is the fourth monitoring report to Cabinet on the 2021/22 financial position. The report brings together financial and performance information with the intention of explaining the current financial position in the context of the policy priorities in the Our North Tyneside Plan. It provides the third indication of the potential revenue and capital position of the Authority at 31 March 2022. The report explains where the Authority continues to manage financial pressures.

The 2020/21 financial year was highly complex for the Authority with the operational response to the pandemic requiring innovation, agility, professionalism and partnership. Like all local authorities, North Tyneside Council continues to feel the impact of the ongoing Covid-19 pandemic and as such this report contains considerations to the potential financial impact the pandemic will have on the Authority in 2021/22. The Authority continues to see areas of pressure across Adults and Children's Social Care, but there are also significant impacts on income particularly across Sport and Leisure Services, and Catering Services.

- 1.2 The Authority's approved net revenue budget of £150.154m is currently forecast to outturn with a pressure of £5.247m. Table 1 in paragraph 1.5 below sets out the variation summary across the General Fund.
- 1.3 The Authority is continuing to take a prudent approach to forecasting including in relation to the impact of Covid-19 which currently is forecast to add pressures of £19.318m to the General Fund in 2021/22. The total Local Authority Support Grant received from Government for 2021/22 to date is £7.261m, of which £5.576m is new and £1.685m is carried forward from 2020/21. In addition, £6.781m of grants have been received to support specific activities, and an assumption has been made that the Authority will receive £1.335m of Sales, Fees and Charges funding, leaving a forecast pressure in the General Fund due to Covid-19 issues of £3.941m. The remaining pressure of £1.306m relates to normal ongoing activities.

Section 4 of this Annex sets out details of all grant funding received in respect of Covid-19 issues.

- 1.4 This Annex describes as far as possible the assumptions currently made in respect of additional costs and loss of income as a result of Covid-19, and where services continue to see variations in respect of business as usual.

1.5 Table: 1 2020/21 General Fund Revenue Forecast Outturn as at 30 November 2021

Services	Budget	Forecast Outturn November	Variance November	Previous Cabinet	Variance Change since September
	£m	£m	£m	£m	£m
Health, Education, Care and Safeguarding	75.108	82.392	7.284	6.972	0.312
Commissioning and Asset Management	8.013	9.273	1.260	1.258	0.002
Environment, Housing and Leisure	44.279	44.108	(0.171)	(0.156)	(0.015)
Regeneration and Economic Development	1.399	1.547	0.148	0.174	(0.026)
Corporate Strategy	0.484	0.513	0.029	0.030	(0.001)
Chief Executive's Office	(0.078)	(0.118)	(0.040)	(0.031)	(0.009)
Resources	3.643	4.234	0.591	0.517	0.074
Law and Governance	0.308	0.777	0.469	0.485	(0.016)
Central Items – BAU	(3.015)	(11.279)	(8.264)	(7.448)	(0.816)
Central Items – Covid-19	0.000	3.941	3.941	4.161	(0.220)
Support Services	20.013	20.013	0.000	0.000	0.000
Total Authority	150.154	155.401	5.247	5.962	(0.715)

SECTION 2 - DELIVERY OF BUDGET SAVINGS PROPOSALS

2.1 No new savings were proposed as part of the budget approved by Council in February 2021 so the total savings the Authority has had to find in the eleven years following the 2010 Comprehensive Spending Review (CSR) remains at the 2020/21 total of £127.756m.

2.2 Table 2: Year on Year savings since 2010 CSR

Year	£m
2011/12	16.169
2012/13	16.739
2013/14	12.240
2014/15	16.552
2015/16	14.158
2016/17	15.737
2017/18	18.338
2018/19	10.143
2019/20	6.875
2020/21	0.805
2021/22	0.000
Total Savings	127.756

2.3 Although no new savings were proposed, a total of £1.180m of savings targets were agreed in prior years budget setting processes for delivery in 2021/22. Savings targets of £2.181m within Health, Education, Care and Safeguarding (HECS) were met in 2020/21 through Covid grants or alternative management actions with a further £0.482m met through one-year funding sources. This leaves a total of £3.843m savings targets within HECS which still require a permanent solution in 2021/22. A target of £0.082m from 2020/21 within Commissioning and Asset Management also requires achievement on a permanent basis in 2021/22. The total savings that need to be achieved in 2021/22 are therefore £4.537m.

2.4 The delivery of savings in 2021/22 is expected to continue to be impacted by the Covid-19 pandemic within HECS and Commissioning & Asset Management and the forecasted achieved savings remains unchanged from the September position.

2.5 Table 3: Efficiency Savings by Service at November 2021

Service	2021/22 Targets £m	Projected Delivery £m	In Year Actions £m	Yet to be achieved £m
HECS	3.843	1.557	0.830	1.456
Commissioning & Asset Management	0.264	0.093	0.000	0.171
Environment Housing & Leisure	0.430	0.430	0.000	0.000
TOTAL	4.537	2.080	0.830	1.627

- 2.6 The governance structure of the Efficiency Savings Programme includes a monthly review of progress by the Senior Leadership Team (SLT). In addition, in-year budget and performance progress meetings are held between officers and Cabinet Members to consider progress and actions being taken to deliver savings. The variations in relation to the savings where delivery has been impacted by Covid are outlined in the sections below.

Health, Education, Care and Safeguarding (HECS)

- 2.7 HECS has achieved savings targets totalling £1.557m relating to Sector Led Improvement income (£0.100m), assistive technology (£0.120m), maximising children's (£0.297m) and Adults NHS income (£0.250m) with improvements in delivery in relation to Learning Disability services (£0.220m), Income Management (£0.050m), development on internal services for children (£0.400m) and reduced external fostering arrangements (£0.120m). An in-year saving of £0.830m has been identified through management actions of retaining vacancies and managing third party payments within Adult services.
- 2.8 This service has been significantly impacted by the Covid-19 pandemic and the level of response required through each phase as the Pandemic continues to unfold. A proportion of the savings involve income generation via third parties. Other service delivery-based savings have been impacted due to capacity issues where placements have had to be maintained due to Covid-19 restrictions.
- 2.9 Finance Officers continue to attend meetings with senior managers and the Head of Service across adult and children's services and individual managers have assigned responsibilities to pursue deliverability of remaining schemes and to identify alternative proposals during 2021/22.

Commissioning and Asset Management

- 2.10 Within Commissioning and Asset Management the only savings target forecasted to be unmet in 2020/21 related to the target for an increase in school meals fees of £0.082m. This is now joined in 2021/22 by a further increase in this target of £0.082m. Both of these targets are forecasted as yet to be achieved pending decisions on school meal price increases. In relation to a target of £0.100m relating to SLA income, £0.093m is forecasted to be achieved, with the remaining £0.007m requiring an alternative solution following the departure of faith schools from the SLA.

Environment Housing and Leisure

- 2.11 All savings in this service are forecasted to be achieved.

SECTION 3 – NEW REVENUE GRANTS

3.1 New revenue grants have been received or notified in October and November 2021.

Table 4: Grants Received or Notified in October and November 2021

Service	Grant Provider	Grant	Purpose	2021/22 value £m
Resources	Department for Work and Pensions	Household Support Grant	To support households in need with their essential living costs	1.610
Commissioning and Asset Management	Education and Skills Funding Agency	Teachers Pay Grant	Funding for schools to support the teachers' pay award	0.156
Commissioning and Asset Management	Education and Skills Funding Agency	Teachers Pensions Employer Contribution Grant	Funding for schools to support increase in employer contributions to the pension scheme	0.441
Commissioning and Asset Management	Education and Skills Funding Agency	School Improvement Monitoring and Brokering Grant	Funding to support local authorities to monitor school performance and broker school improvement	0.255
Commissioning and Asset Management	Education and Skills Funding Agency	Primary PE and Sport Premium	Funding passported to schools to improve PE and to support healthy lifestyles	0.615
Commissioning and Asset Management	Education and Skills Funding Agency	Summer Schools	To support the provision of summer schools	0.108
Health Education Care and Safeguarding	Department of Health and Social Care	Workforce Recruitment and Retention	To provide support for addressing workforce recruitment and retention in social care	0.698

Service	Grant Provider	Grant	Purpose	2021/22 value £m
Health Education Care and Safeguarding	UNITAS	Autumn Arts College	To support the provision of an Autumn Arts College in North Tyneside	0.010
Health Education Care and Safeguarding	Youth Justice Board	Youth Justice Good Practice Grant	To support reduction in youth offending	0.004
Central Items	Department for Education	Covid-19 mass testing for schools and colleges	To support mass testing in schools and colleges (Aug and Sept)	0.098
Central Items	Department for Education	Covid-19 Recovery Fund	To support Covid recovery	0.412
Central Items	Department for Education	Covid-19 Recovery Fund (Mockingbird element – Fostering Network)	To provide support to foster carers	0.054
Environment Housing and Leisure	North of Tyne Combined Authority	North East LEP Energy Accelerator	To carry out a Killingworth District Energy Scheme feasibility study	0.075
Environment Housing and Leisure	North of Tyne Combined Authority	The Morph Trail	Event funding	0.048
Environment Housing and Leisure	North of Tyne Combined Authority	The North Sea Weekender	Event funding	0.036
Environment Housing and Leisure	Department for Food and Rural Affairs	Port Health Transition Fund	Support Port Health costs	0.086
Environment Housing and Leisure	Department for Levelling Up, Housing and Communities	Support for Vulnerable Renters	Support for prevention of eviction and extended notice periods	0.078

Service	Grant Provider	Grant	Purpose	2021/22 value £m
Commissioning and Asset Management	European Social Fund (via Department for Work and Pensions)	Step to Employment	To support residents aged 29 and over along a journey into employment or self-employment	0.021
Total				4.805

SECTION 4 – IMPACT OF COVID-19

4.1 The Authority continues to play a key role in supporting businesses, residents, care homes and schools with financial support and additional Covid-19 related services throughout the Pandemic. Financial impacts remain, due to loss of income as a result of closures and restrictions on the facilities the Authority operates and additional costs resulting from Covid-19 in relation to its business-as-usual activities. The Authority has received a range of grants from Government to fund this additional activity and the financial impact on the Authority's normal services. The tables below outline the grants received, spend in year and the outcomes related to each grant.

4.2 **Table 5: Supporting Our Businesses**

Business Grant	Value Awarded 21/22	Value B/Fwd from 20/21	Value Spent 01.04.21-30.11.21	Value Committed @ 30.11.21	Value Available @ 30.11.21
	£m	£m	£m	£m	£m
Business Support Top-Up (Closed Business Lockdown Payments)	0.000	3.307	0.199	3.108	0.000
Local Restrictions Support 'Closed' & 'Open'	0.000	4.694	0.353	4.341	0.000
Additional Restrictions Grant	0.000	2.661	2.681	0.000	(0.020)
Additional Restrictions Grant – Top Up	1.112	0.000	0.526	0.566	0.020
Christmas Support 'Wet-Pubs'	0.000	0.047	0.047	0.000	0.000
Restart Grants	9.804	0.000	8.875	0.929	0.000
Capacity Fund	0.000	0.636	0.583	0.053	0.000
Travel Demand Management	0.000	0.010	0.010	0.000	0.000
Total	10.916	11.355	13.274	8.997	0.000

4.3 The Authority has £11.355m of grant funding brought forward from 2020/21 with a further £10.916m awarded in 2021/22 aimed at supporting businesses across the Borough. £13.274m of this has been allocated to date. Of the remaining £8.997m, £8.378m is being held in anticipation of repayment to Central Government. This relates to the Business Support Top-Up, Local Restrictions Grants and Restart Grant where the schemes have ended and the Authority was awarded more funding than was required. The remaining £0.619m is anticipated to be fully allocated during the remainder of 2021/22.

4.4 Table 6: Supporting Our Residents

Residents Grant	Value Awarded 21/22	Value B/Fwd from 20/21	Value Spent 01.04.21-30.11.21	Value Committed @ 30.11.21	Value Available @ 30.11.21
	£m	£m	£m	£m	£m
Test & Trace Programme Support Grant	0.000	0.782	0.525	0.257	0.000
Emergency Assistance Grant	0.000	0.080	0.031	0.049	0.000
Contain Outbreak Management Fund	1.439	5.302	1.728	5.013	0.000
Test & Trace (self-isolation) Support Payments	1.276	0.438	0.730	0.984	0.000
LA Practical Support Framework	0.354	0.000	0.039	0.315	0.000
Covid Marshalls	0.000	0.003	0.003	0.000	0.000
Clinically Extremely Vulnerable	0.236	0.303	0.118	0.421	0.000
Rough Sleepers Additional Grant	0.025	0.000	0.025	0.000	0.000
Winter Grant	0.012	0.000	0.012	0.000	0.000
Local Support Grant & Extension	0.759	0.000	0.759	0.000	0.000
Rapid Testing in the Community	0.156	0.000	0.156	0.000	0.000
Total	4.257	6.908	4.126	7.039	0.000

4.5 The Authority has been awarded £4.257m of new grant funding in 2021/22 to continue supporting its residents on top of a brought forward balance of £6.908m from 2020/21, meaning there is £11.165m of funding available. This funding ranges from ensuring our most vulnerable are protected, individuals that needed to self-isolated still have access to the services they required and ensuring residents can visit our coastline and other attractions safely, where guidelines allow, through the employment of Covid Marshalls and other safety measures. The Authority has spent £4.126m in the period to the end of November and is committed to spending the balance of £7.039m in this financial year. The majority of the committed balance relates to the Contain Outbreak Management Fund. This grant is to help the Authority support the prevention of Covid-19 outbreaks or manage any that do occur in the borough. A number of plans are in place to spend this money over the remaining months of 2021/22.

4.6 Table 7: Supporting Our Care Homes

Care Sector Grant	Value Awarded 21/22	Value B/Fwd from 20/21	Value Spent 01.04.21-30.11.21	Value Committed @ 30.11.21	Value Available @ 30.11.21
	£m	£m	£m	£m	£m
Infection Control	1.278	0.544	0.871	0.951	0.000
Infection Control and Testing Grant	1.237	0.000	0.000	1.237	0.000
Rapid Testing – Care Homes	0.922	0.000	0.799	0.123	0.000
Total	3.437	0.544	1.670	2.311	0.000

4.7 The Authority has been awarded £3.437m to support the care homes within the borough, as well as having £0.544m carried forward from 2020/21. The majority of this funding is passed over directly to the care homes. The remaining funding is used to support the Authority’s adult social care services for infection control and testing activities.

4.8 Table 8: Supporting Our Schools

Schools Grant	Value Awarded 21/22	Value B/Fwd from 20/21	Value Spent 01.04.21-30.11.21	Value Committed @ 30.11.21	Value Available @ 30.11.21
	£m	£m	£m	£m	£m
Digital Inclusion	0.000	0.076	0.051	0.025	0.000
Schools Catch-up Premium	0.880	0.000	0.880	0.000	0.000
Mental Health in Schools	0.024	0.000	0.000	0.024	0.000
Additional Home to School Transport	0.184	0.000	0.184	0.000	0.000
Mass Testing for Schools	0.172	0.233	0.233	0.172	0.000
Recovery Premium	1.061	0.000	0.270	0.791	0.000
National Tutoring Programme	0.262	0.000	0.000	0.262	0.000
Summer Schools Funding	0.108	0.000	0.108	0.000	0.000
Total	2.691	0.309	1.726	1.274	0.000

4.9 Grant funding of £2.691m has been awarded for 2021/22 with a brought forward balance from 2020/21 of £0.309m giving a balance available to spend on our

maintained schools during 2021/22 of £3.000m. This funding is to help support schools to be able to continue to offer a Covid-safe environment and deliver services to ensure children are not detrimentally impacted by being unable to attend classes in school.

Supporting Council Services

4.10 The Authority's services have been heavily impacted by the Covid-19 pandemic. These services are being supported in 2021/22 by £5.576m of Local Authority Support Grant and a brought forward balance of £1.685m. There is also utilisation of £6.781m of specific grants supporting services, and an estimate of £1.335m of grant funding to cover losses on Sales, Fees and Charges, which together with the Local Authority Support Grant amounts to a total grant availability of £15.377m. The tables below, summarised in Table 16, show that the forecasted total impact of Covid-19 on general fund services in 2021/22 is expected to be £19.318m, which will therefore leave a pressure on Covid-19 of £3.941m over the funding currently available.

The figures in the tables below are forecasts based on a range of assumptions relating to when the service areas predict their services will see the financial impact of Covid-19 reduce and activity return to a pre pandemic level. These forecasts will continue to be updated as new Government guidance is considered and implemented.

4.11 Table 9: Supporting Our Council Services in Commissioning & Asset Management

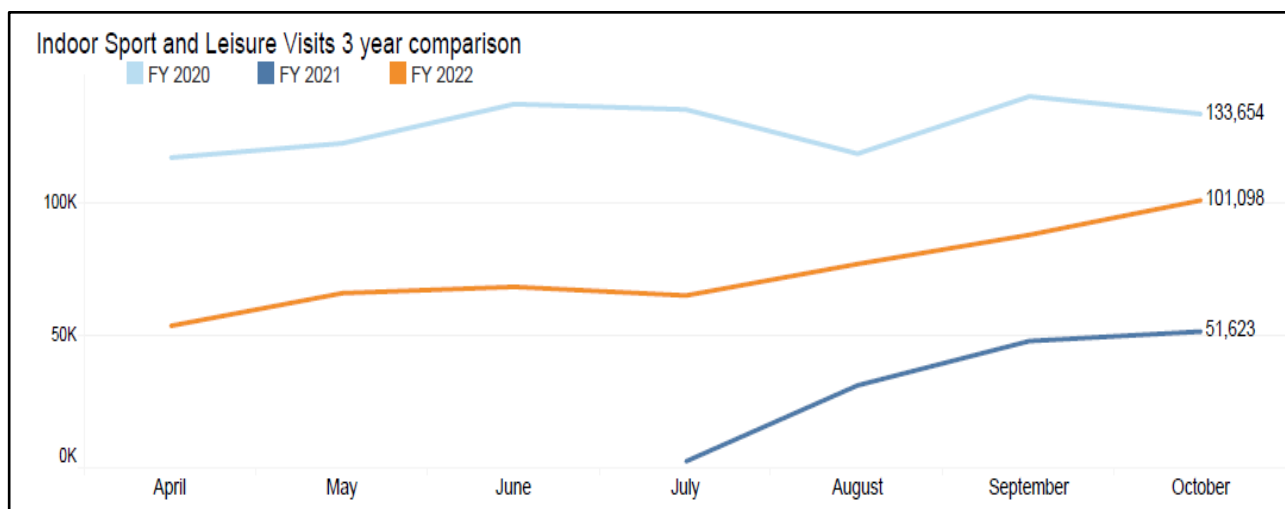
Commissioning & Asset Management	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Free School Meals	1.583	0.000	1.583
Asset Management	0.050	0.000	0.050
LA7 Home to School Transport	0.000	0.184	0.184
Clinically Extremely Vulnerable	0.000	0.539	0.539
Electricity	(0.013)	0.000	(0.013)
Cleaning	0.046	0.000	0.046
Rents General	0.036	0.000	0.036
Car Parks (season tickets)	0.042	0.000	0.042
Penalty Notices (absence from School)	0.026	0.000	0.026
Contractor Payments	0.002	0.000	0.002
General Fund PPE	0.033	0.000	0.033
Total	1.805	0.723	2.528

4.12 **Table 10: Supporting Our Council Services in Environment, Housing & Leisure**

Environment Housing & Leisure	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Sport & Leisure	2.144	0.000	2.144
Environmental Services	0.182	0.000	0.182
Waste Management	0.487	0.000	0.487
Highways & Transport	0.505	0.000	0.505
Cultural Services	0.185	0.000	0.185
Homelessness	0.015	0.000	0.015
Marshalls	0.000	0.174	0.174
Environment & Regulatory	0.073	0.000	0.073
Planning & Development	0.085	0.000	0.085
Total	3.676	0.174	3.850

The main pressure within EHL relates to Sport & Leisure, where closures and reduced visits during the pandemic have significantly impacted on income. Chart 1 below shows that visitor numbers have improved in 2021/22 compared to 2020/21 but the number is still much lower than pre-pandemic levels.

Chart 1: Sport & Leisure Visits



4.13 **Table 11: Supporting Our Council Services in Health, Education, Care & Safeguarding**

Health, Education, Care & Safeguarding	Main Grant £m	Other Specific Grant £m	Total Claimed £m
CYPL - School Improvement	0.291	0.000	0.291
CYPL - Front Door & safe and support	1.502	0.000	1.502
CYPL - Placement Costs	1.615	0.000	1.615
CYPL - Residential Staffing	0.656	0.000	0.656
CYPL - Adoption Agency (NTC share)	0.089	0.000	0.089
ASC - Adult Services	2.689	0.000	2.689
ASC - Rapid Testing in Social Care	0.000	1.417	1.417
ASC – Workforce Capacity	0.000	0.698	0.698
ASC - Infection Control Grant	0.000	2.298	2.298
CYPL & ASC sub total	6.842	4.413	11.255
PH - Test & Trace Support Service	0.000	0.782	0.782
Total	6.842	5.195	12.037

4.14 **Table 12: Supporting Our Council Corporate Strategy**

Corporate Strategy	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Corporate Strategy	0.120	0.000	0.120
Total	0.120	0.000	0.120

4.15 **Table 13: Supporting Our Council Resources and Central Items**

Resources & Central Items	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Corporate ICT	0.334	0.000	0.334
Finance / Corporate Services	0.082	0.000	0.082
Provision for Bad Debt	0.167	0.000	0.167
Total	0.583	0.000	0.583

4.16 Table 14: Supporting Our Council in Law and Governance

Law & Governance	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Law & Governance	0.149	0.000	0.149
Total	0.149	0.000	0.149

4.17 Table 15: Supporting Our council in Regeneration & Economic Development

Regeneration & Economic Development	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Regeneration & Economic Development	0.000	0.051	0.051
Total	0.000	0.051	0.051

4.18 Table 16: Covid-19 Support to Services Summary

Service Area/ Category	Main Grant £m	Other Specific Grant £m	Total Claimed £m
Commissioning & Asset Management	1.805	0.723	2.528
Environment, Housing & Leisure	3.676	0.174	3.850
Health, Education, Care and Safeguarding	6.842	5.195	12.037
Corporate Strategy	0.120	0.000	0.120
Resources and Central Items	0.583	0.000	0.583
Law and Governance	0.149	0.000	0.149
Regeneration and Economic Development	0.000	0.051	0.051
Total Impact on Services	13.175	6.143	19.318
Local Authority Support Grant	(7.261)	0.000	(7.261)
Sales, Fees and Charges*	0.000	(1.335)	(1.335)
Specific Covid Grants	0.000	(6.781)	(6.781)
Unallocated in Reserve	5.914	(1.973)	3.941

*This figure is an estimate of the value the Authority will be claiming in relation to the funding available to support losses on Sales, Fees and Charges. Currently, this grant is only available in 2021/22 to cover losses incurred in April 2021 to June 2021.

SECTION 5 – SERVICE COMMENTARIES

5.1 Meetings have been held between finance officers and budget managers to review the forecast positions for 2021/22, with forecasts being prepared on a prudent basis. Challenge sessions are planned to review the quarterly financial position and service performance with the Elected Mayor, the Deputy Mayor, the Cabinet Member for Finance and Resources, and other relevant Cabinet Members. Service Directors and their senior teams also attend these challenge sessions to discuss plans in progress to mitigate any pressures.

5.2 Health, Education, Care & Safeguarding (HECS)

5.2.1 HECS is showing a forecast variance of £7.284m against its £75.108m net controllable expenditure budget, a worsening of £0.312m from the September position of £6.972m. This position is after adjusting for a total of £12.037m of Covid-19 related cost and income pressures which are now shown within Central Items. The forecasted pressure is mostly within Children’s Services and excludes the application of contingency budgets set aside in Central Items for pressures in Children’s Services of £3.116m.

5.2.2 The HECS service continues to be impacted by the Covid-19 Pandemic and has put in place a range of responses to support existing clients and other residents directly affected by the virus who have required new support packages to be put in place on discharge from hospital or to prevent an admission. Work is also ongoing to support social care providers to maintain their vital services. Further details on Covid impacts are shown in Section 4 above.

5.2.3 Table 17: Forecast Variation for HECS at November 2021

	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sept £m	Change since Sept £m
Corporate Parenting & Placements	15.802	20.899	5.097	5.442	(0.345)
RHELAC Service	0.008	0.008	0.000	0.000	0.000
Child Protection, Independent Assurance and Review	0.708	0.711	0.003	0.010	(0.007)
Early Help & Vulnerable Families	1.543	1.392	(0.151)	(0.151)	0.000
Employment & Skills	0.591	0.568	(0.023)	(0.026)	0.003

	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sept £m	Change since Sept £m
Integrated Disability & Additional Needs Service	2.284	3.848	1.564	1.628	(0.064)
School Improvement	0.319	0.374	0.055	0.040	0.015
Regional Adoption Agency	0.000	0.000	0.000	0.000	0.000
Children's Services Sub-total	21.255	27.800	6.545	6.943	(0.398)
Central, Strategy and Transformation	1.131	1.153	0.022	0.032	(0.010)
Social Work and Associated Activity	7.211	7.368	0.157	0.235	(0.078)
Integrated Services	2.751	2.373	(0.378)	(0.415)	0.037
Business Assurance	0.296	0.334	0.038	0.044	(0.006)
Sub-total Operations	11.389	11.228	(0.161)	(0.104)	(0.057)
Commissioned Services – Wellbeing and Assessment	12.214	11.832	(0.382)	(1.138)	0.756
Commissioned Services – Learning Disability	25.435	25.323	(0.112)	(0.071)	(0.041)
Commissioned Services – Mental Health	3.312	4.675	1.363	1.311	0.052
Commissioned Services - Other	1.262	1.293	0.031	0.031	0.000
Sub-total – Commissioned Services	42.223	43.123	0.900	0.133	0.767
Adult Services Sub-total	53.612	54.351	0.739	0.029	0.710
Public Health	0.241	0.241	0.000	0.000	0.000
Total HECS	75.108	82.392	7.284	6.972	0.312

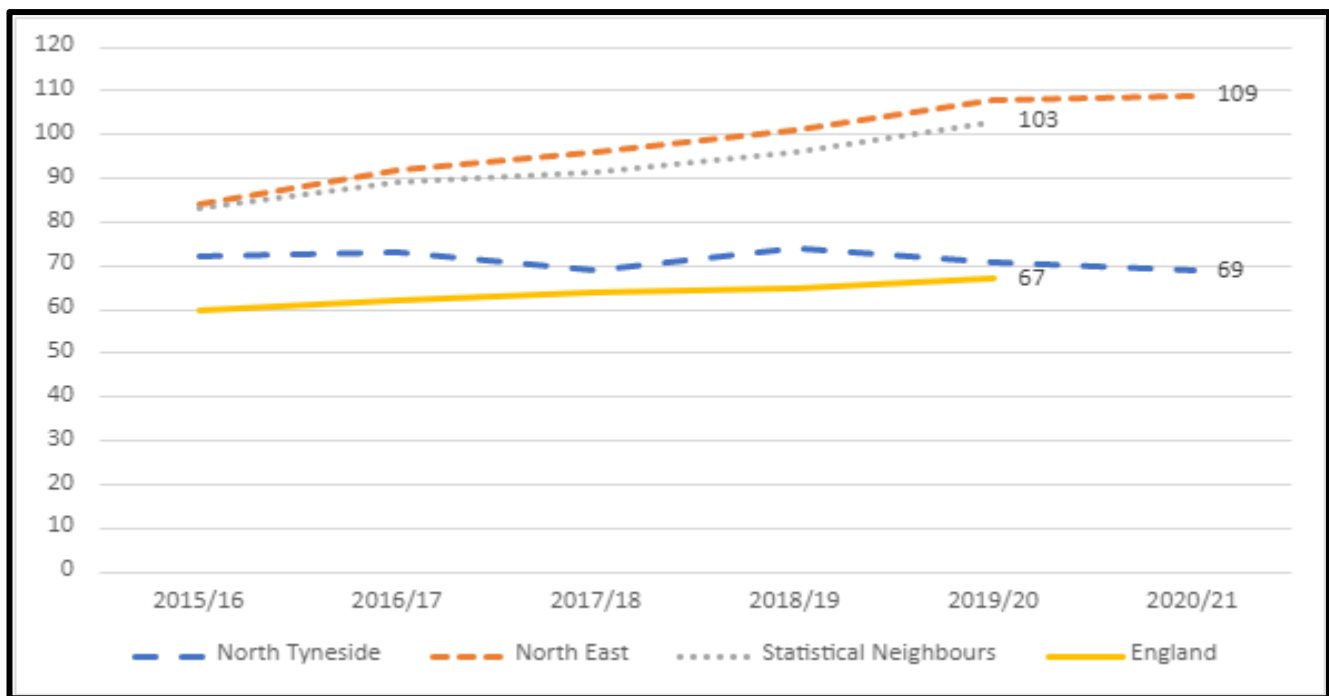
Main budget pressures across HECS

- 5.2.4 In addition to its response to the Covid-19 pandemic, HECS continues to manage a complex budget and is required to deal with a combination of funding arrangements, pressures and national policy changes. There are continuing upward pressures on care providers' fees partially resulting from the National Living Wage but which have become more acute with the operational impact of Covid-19 on care homes and issues around high vacancy levels in a small number of care homes within the borough. Dialogue continues with care home providers around appropriate fee rates. Negotiations also continue around ensuring funding contributions from the NHS for clients with health needs as the North Tyneside Clinical Commissioning Group (NTCCG) themselves face continuing budget constraints.
- 5.2.5 The main factor behind the overall forecast position, however, is the significant pressure within Corporate Parenting and Placements in relation to care provision for children in care and care leavers. There is also a pressure relating to services for children with additional needs. In addition to care provision pressures, there are also on-going pressures in the workforce arising from staff retention costs and recruitment costs.

Children's Services

- 5.2.6 In Children's Services the £6.545m forecast pressure relates mainly to pressures of £5.097m in Corporate Parenting and Placements and £1.564m in Integrated Disability and Additional Needs. The pressures were foreseen by Cabinet and backed by £3.116m of centrally held contingencies. This position excludes Covid-19 related pressures of £4.153m which have been transferred to Central Items.
- 5.2.7 The improvement in the variance since the September report within Corporate Parenting and Placements is mainly due to increased grant income for unaccompanied asylum seeking children and a net transfer of workforce costs to Central Items to be set against Covid grants. Additional Covid related costs were identified as part of a line-by-line review of posts and identification of Covid-related work. There has also been an improvement in Integrated Disability and Additional Needs due to reduced staffing costs in the Statutory Assessment and Review (SAR) Team and increased recharge income for respite services.
- 5.2.8 North Tyneside Council, unlike many authorities in the region, has managed to maintain the level of children in care at a stable rate during the Pandemic and at a rate which compares favourably with our neighbours.
- 5.2.9 The most recent available national comparators from 2019/20, as demonstrated by Chart 2 below, shows that North Tyneside, although above the England average, has historically performed well within the North East region in relation to the rates of children in care.

5.2.10 **Chart 2: Comparative Performance in Rates of Children in Care per 10,000 Children under 18**



5.2.11 Although an amount of £3.116m is held as a contingency budget for children’s services within Central Items, the budget within the service for the costs of looking after children who need to come into care is not sufficient for the relatively stable level of children who require these services. The costs for children who are formally not classed as in care but who required costed services also continues, as in previous years, to be significantly above budget. The service has completed an exercise in conjunction with colleagues in Finance, Performance and HR to identify growth requirements and saving opportunities as part of the ongoing development of the Medium-Term Financial Plan.

Corporate Parenting and Placements

5.2.12 The pressures within Corporate Parenting and Placements can be broken down as follows:

Table 18: Analysis of Pressures in Corporate Parenting and Placements

Type of Service	Budget £m	Variance Nov £m	Variance Sept £m	Change Since Sept £m
Care provision – children in care	9.188	2.802	2.922	(0.120)
Care provision – other children	3.147	0.877	0.926	(0.049)
Management & Legal Fees	(0.948)	0.699	0.699	0.000
Social Work	4.369	0.715	0.891	(0.176)
Safeguarding Operations	0.046	0.004	0.004	0.000
Total	15.802	5.097	5.442	(0.345)

5.2.13 The forecast has been developed based on the children in care as at the end of November 2021. The number in care at the end of November was 318 which was a net increase of 1 from the September figure of 317. The November forecast for the total number of care nights is now 109,408 which remains broadly in line with the September forecasted nights, but remains higher than the total number of care nights delivered in 2020/21 which was 108,745.

5.2.14 Table 19: Forecast cost, forecast variance, average placement cost and Placement mix

Placement Type	2021/22 Nov Variance	Average Annual Placement cost (£m)	Forecast Bed Nights Nov	Forecast Bed Nights Sept	Placement Mix	No. of children Nov 21	No. of children Sept 21
External Residential Care	1.174	0.275	8,140	8,140	8%	26	27
External Fostering	0.208	0.046	10,313	10,313	8%	27	26
In-House Fostering Service	0.455	0.024	67,722	67,915	61%	193	193
External Supported Accommodation	0.162	0.130	3,953	3,953	6%	17	17
Other*	0.813	various	19,280	19,152	17%	55	54
Total	2.802		109,408	109,473	100%	318	317

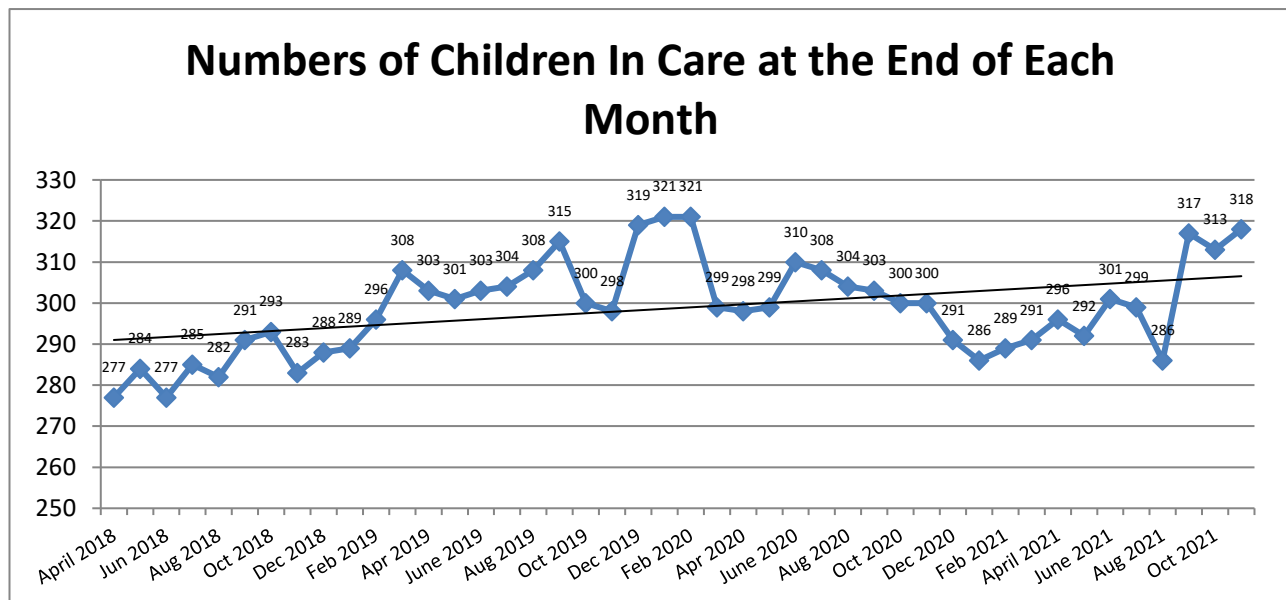
*Other includes Placed for Adoption, Placed with Parents/Parental Responsibility and NTC Children's Homes; the Annual Average Placement Cost represents the potential costs for a full year of those children in placements as at 30 September 2021.

5.2.15 The number of children in care can be volatile and costs for individual children can be very high. There is a potential risk that the forecast could increase if numbers of care nights delivered on complex cases starts to rise above current levels. There is a concern that there may be future spikes in numbers of children in care as the potential economic effects of the Covid-19 crisis impact on families.

Care Provision – Children in Care

5.2.16 Over recent years, there has been an increasing trend nationally in demand for children’s residential placements but with no corresponding increase in government-funded provision. The trend in North Tyneside over the last few years is that the overall number of children in care has mirrored the increases being felt nationally. There has been an increase in November to 318 children and this trend is being watched carefully.

5.2.17 **Chart 3: Children in Care at the End of Each Month**



Care Provision – Children not in care

5.2.18 The pressure of £0.877m (September variance, £0.926m) relating to care provision for children not in the care system relates predominantly to children under a Special Guardianship Order (SGO). Cabinet will recall that the Authority’s policy for supporting children in SGOs was amended in 2018 and that this brought about additional costs. The contingency budget of £3.116m established in Central Items was, in part, intended to mitigate against these costs.

Management and Legal Fees

5.2.19 This area has a forecast pressure of £0.699m which is unchanged from the September report with pressures remain in relation to historic income targets and legal fees.

Social Work

5.2.20 Within the overall pressure of £5.097m for Corporate Parenting and Placements, there are social work-related pressures of £0.715m (September, £0.891m). The improvement is due to a transfer to Covid funding of £0.180m of workforce costs. Of the remaining £0.715m pressure, £0.480m relates to employee costs with £0.235m relating to non-pay costs. There is an additional team in place of 6 posts costing £0.244m and market supplements across the service amounting to £0.142m. There are s17 assistance costs forecasted above budget level by £0.051m, transport and travel pressures of £0.027m and legal and professional fee pressures of £0.105m. Cabinet is aware of the particular challenges faced across the children's social care sector nationally. Caseloads per social worker remain high at just over 20 compared to the national average of 16.3 (for 2020). The additional social work costs within Children's services reflects the commitment not to use agency staff within front line teams.

Integrated Disability and Additional Needs (IDANS)

5.2.21 IDANS is forecasting a pressure of £1.564m (September variance was £1.628m). Pressures within IDANS should be seen within the national and local context of increasing numbers of children with Education Health and Care Plans (EHCPs). Within North Tyneside, the number of children with an EHCP has risen from 1102 in January 2018 to 2041 in November 2021. Within this service area the main pressures relate to operational staffing costs within in-house residential services of £0.239m and associated unachieved health income target of £0.191m. There are also forecast staffing pressures of £0.276m in Educational Psychology relating to an increase in non-chargeable statutory work associated with increased levels of EHCPs for children with additional needs. There are pressures of £0.670m on externally commissioned short breaks and staffing pressures of £0.157m across the Statutory Assessment and Review (SAR) Team and the Disability Team. The improved forecast is due to reduced staffing costs within the SAR team and increased recharge income for respite services.

5.2.22 The IDANS service is continuing to carefully review planned provision to identify any areas of spend which can be reduced without adverse impacts on the children and families receiving support.

Adult Services

5.2.23 Adult Services are forecasted to show a pressure of £0.739m which compares to a forecast pressure of £0.029m in September. This position is after a total of £7.102m of Covid costs are transferred to Central Items to be offset against Covid related grants. The main cause of the increase is the impact of the increased care home fees as detailed in the Care Home Fees and Procurement Arrangements report to Cabinet also presented on 24 January 2022.

5.2.24 Adult Services continues to be heavily impacted by the Pandemic and other external factors. The lack of capacity in the homecare market initially reported in the summer has continued as care providers struggle to recruit and retain staff in a competitive jobs market. The lack of homecare capacity has contributed to higher levels of short-term placements into residential care. Hospital discharges have fallen since the July level of around 275 per month to 254 and 218

respectively in September and October but remain higher than pre-Covid-19 levels of approximately 160.

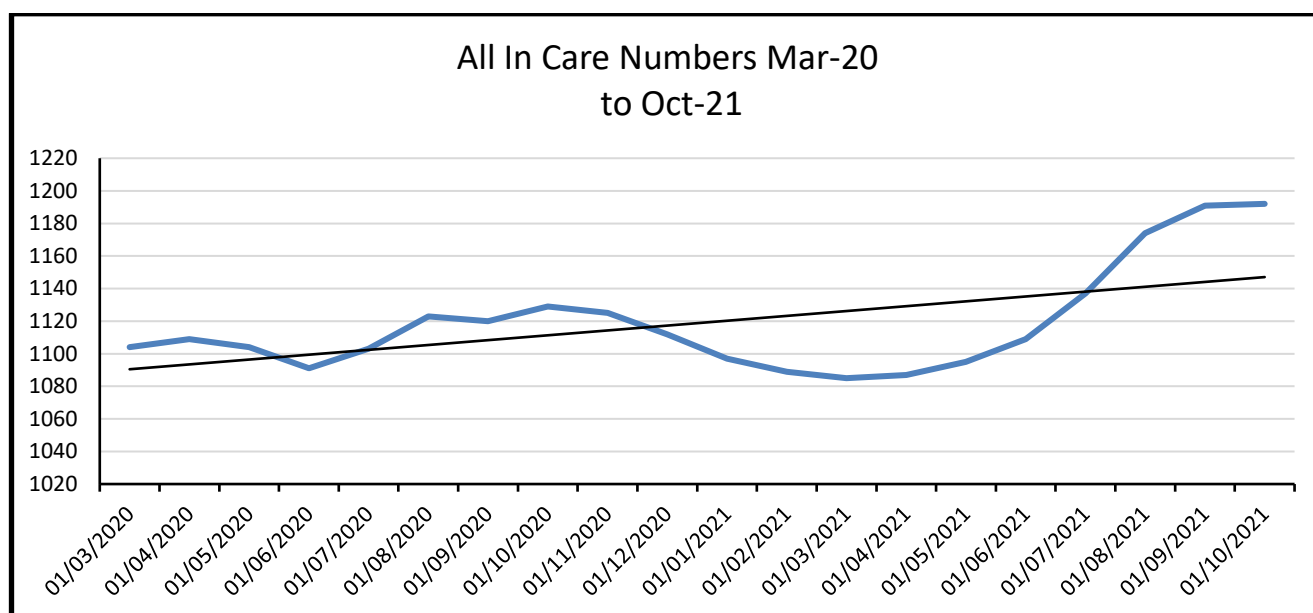
5.2.25 Forecasted costs associated with the operational management of the service are showing an underspend of £0.161m, an improvement from the September position of an underspend of £0.104m. The change is due to revised assumptions around recruitment into vacancies. Pressures within social work teams are partially offset by an underspend in Integrated Services due to vacancies.

5.2.26 There is a pressure within Commissioned Services – Mental Health (£1.363m) mainly due to three new high-cost clients who entered the service in March and April 2021. There are also pressures due to increased client numbers relating to residential and nursing care within Mental Health.

5.2.27 Forecasted pressures in Commissioned Services – Mental Health are offset by a budget surplus across Commissioned Services in Learning Disabilities.

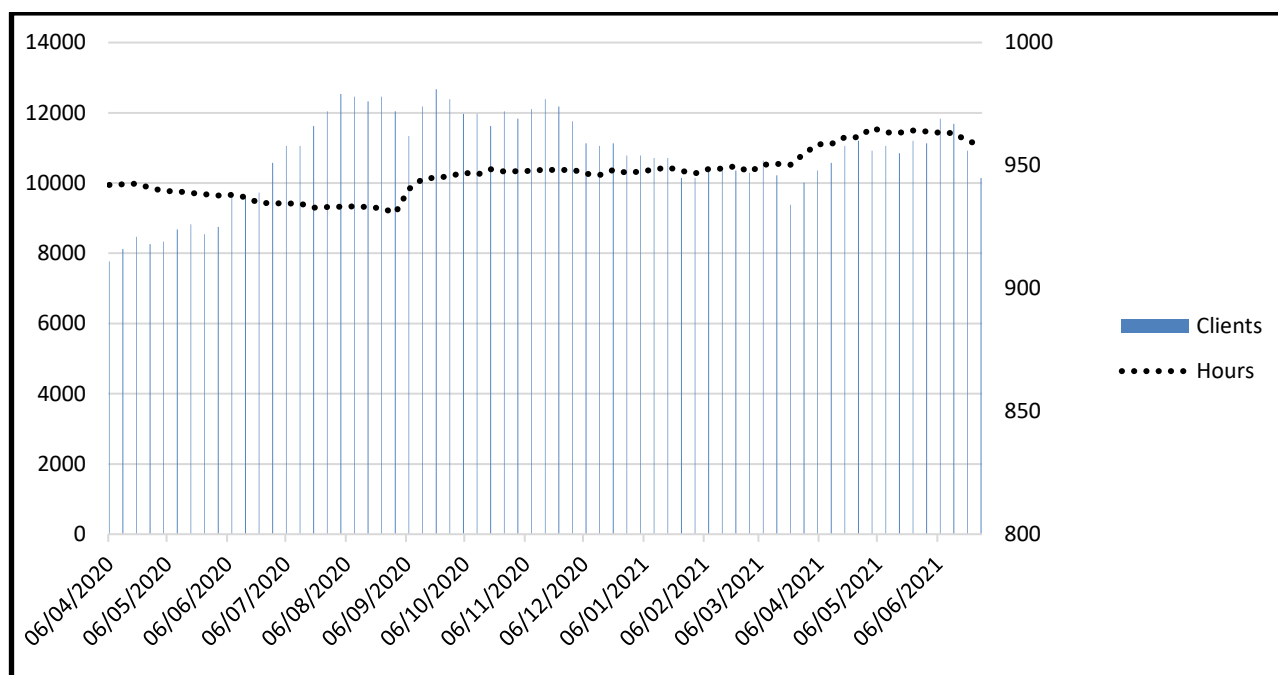
5.2.28 The overall numbers in residential and nursing care continued to rise in August before remaining steady in September and October.

5.2.29 **Chart 4: Overall Numbers of Clients in Residential and Nursing Care**



5.2.30 The reduced numbers of clients receiving a homecare package and overall reduced number of hours delivered is shown in Chart 5 below. The position includes a prudent forecast for the cost of packages currently on a waiting list based on an assumption that they will be picked up by providers in the last quarter of the financial year.

5.2.31 Chart 5: Homecare - Number of Clients and Hours Delivered



5.3 Commissioning and Asset Management

5.3.1 Commissioning and Asset Management (C&AM) is showing a pressure of £1.260m (September, pressure of £1.258m) as set out in Table 19.

5.3.2 C&AM has also been heavily impacted by the Covid-19 Pandemic, particularly in relation to supporting schools and in relation to lost income with details shown in Section 4.

5.3.3 **Table 20: Commissioning and Asset Management (C&AM) Forecast Variation**

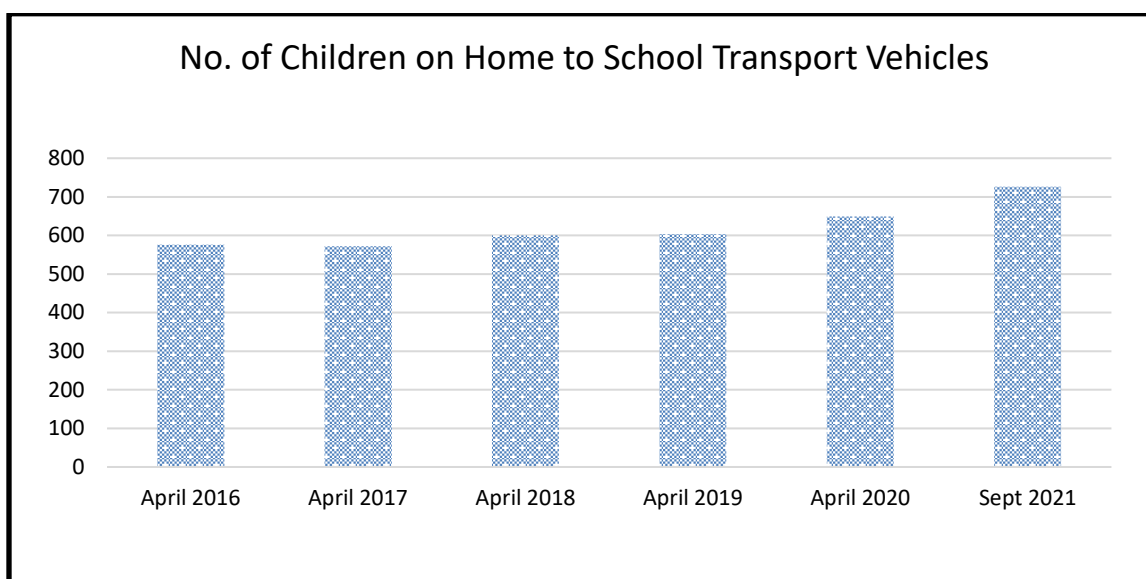
	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sept £m	Change since Sept £m
School Funding & Statutory Staff Costs	5.410	5.308	(0.102)	(0.102)	0.000
Commissioning Service	0.406	0.417	0.011	0.011	0.000
Facilities & Fair Access	0.412	1.703	1.291	1.269	0.022
Community & Voluntary Sector Liaison	0.441	0.400	(0.041)	(0.035)	(0.006)
Strategic Property & Investment	1.918	2.088	0.170	0.122	0.048

	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sept £m	Change since Sept £m
High Needs Special Educational Needs	0.000	0.000	0.000	0.000	0.000
Property	(0.727)	(0.727)	0.000	0.000	0.000
Commissioning & Asset Management & Support	0.161	0.160	(0.001)	0.000	(0.001)
Procurement	(0.008)	(0.076)	(0.068)	(0.007)	(0.061)
Grand Total	8.013	9.273	1.260	1.258	0.002

5.3.4 The main 'business as usual' budget issues relate to Facilities and Fair Access which is showing forecast pressure of £1.291m (September, forecast pressure of £1.269m). The pressure mainly relates to Home to School Transport (£1.100m). There are also pressures on the catering service of £0.182m due to increasing numbers of benefit-based free school meals and the consequential impact on loss of paid income. Inflationary pressures within Catering are also having an impact. There is also a pressure of £0.059m on car parking income in relation to Quadrant. Pressures on repairs and maintenance have increased by £0.048m since the previous report however Procurement has improved by £0.061m due to additional funding from the HRA and from the North of Tyne Combined Authority.

5.3.5 The Home to School Transport position, a pressure of £1.100m, relates to the sustained and increase in children with complex needs attending special schools. Demand pressures in High Needs is a known issue nationally and is also impacting on the High Needs budget within the Dedicated Schools Grant (see paragraphs 6.4 to 6.5 for more details). As a result of the increase in demand for home to school transport for children with additional needs, the number of children in vehicles has risen from 614 in April 2016 to 773 for the autumn term in September 2021 as shown in Chart 6 below. Work is also continuing on route rationalisation using the new QRoute system however the requirement for continued social distancing has limited rationalisation opportunities.

5.3.6 Chart 6: Increase in Numbers of Children Accessing Home to School Transport



5.3.7 In addition to Facilities and Fair Access, within Strategic Property and Investment, the repairs and maintenance budget is forecasted to show a pressure of £0.200m due to the cost of essential repairs across the Authority’s buildings. This is partially offset by recharges to capital budgets and other savings across this service area.

5.4 Environment, Housing & Leisure (EHL)

5.4.1 EHL is forecasting an underspend of £0.171m against the £44.278m net budget, as set out in Table 20 below. The position includes a planned £0.583m draw-down of reserves for the street-lighting PFI contract and PFI buildings.

5.4.2 The Covid-19 Pandemic continues to impact on EHL mainly in relation to lost income with £2.792m of the £3.850m estimated impact is due to income-generating services being expected to operate at a lower level. This forecast is based on a high-level impact assessment of on-going income modelled on actual operating levels to November, with operations assumed to continue at lower than pre-pandemic levels for the remainder of the financial year.

5.4.3 Table 21: Forecast Variation in Environment Housing & Leisure

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Cultural Services	6.825	6.868	0.043	0.054	(0.011)
Local Environmental Services	7.528	7.562	0.034	0.010	0.024
Fleet Management	1.123	1.102	(0.021)	(0.038)	0.017
General Fund Housing	1.198	1.268	0.070	0.070	0.000
Head of Service and Resilience	0.245	0.266	0.021	0.000	0.021

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Security & Community Safety	0.107	0.060	(0.047)	(0.048)	0.001
Sport & Leisure	2.719	2.620	(0.099)	(0.077)	(0.022)
Street Lighting PFI	4.717	4.717	0.000	0.000	0.000
Consumer Protection & Building Control	0.987	0.975	(0.012)	(0.008)	(0.004)
Planning	0.247	0.247	0.000	0.000	0.000
Transport and Highways	7.187	7.225	0.038	0.035	0.003
Waste	11.396	11.198	(0.198)	(0.154)	(0.044)
GRAND TOTAL	44.279	44.108	(0.171)	(0.156)	(0.015)

5.4.4 The slight improved change in variance of £0.015m since the last Cabinet report reflects Sport & Leisure expecting a forecast underspend of £0.099m which is an improvement of £0.022m from the last reported position. In addition, Waste Management is expecting a forecast underspend of £0.119m which is an improvement of £0.038m from the last reported position.

5.4.5 The following paragraphs outline the pressures in each service area with details of any variances or movement greater than £0.050m.

Sport & Leisure

5.4.6 Sport & Leisure is now expecting to report a forecast underspend of £0.099m which is an improvement of £0.022m from the last reported position. The main causes for the improved forecast underspend are a one off in-year £0.050m refund on water and sewerage costs at Tynemouth Pool, reduced operational activity and savings from vacancies during recruitment process.

Waste Delivery & Management

5.4.7 Overall, the waste service areas are now expecting to report a forecast underspend of £0.198m which is an improvement of £0.043m from the last reported position. The main cause for the improved forecast underspend is higher than expected Commercial Waste income.

Regeneration and Economic Development

5.5.1 Regeneration and Economic Development (RED) is forecasting a pressure of £0.148m at November 2021, as shown in Table 21 below.

5.5.2 Table 22: Forecast Variation for Regeneration and Economic Development

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Business & Enterprise	0.751	0.694	(0.057)	(0.051)	(0.006)
Regeneration	0.445	0.574	0.129	0.146	(0.017)
Resources & Performance	0.203	0.279	0.076	0.079	(0.003)
Grand Total	1.399	1.547	0.148	0.174	(0.026)

5.5.3 The £0.026m favourable change in variance since the last Cabinet report reflects forecast reduced expenditure being incurred across Business & Enterprise and Resources & Performance; together with increased income within Regeneration.

5.5.4 The variance reflects forecasts cost pressures within Regeneration of £0.129m linked to unforeseen and higher than expected expenditure across the Swans sites and within Resources & Performance of £0.076m mainly due to insufficient base budget for management staffing. Small underspends across the rest of the service slightly reduce the pressure.

5.6 Corporate Strategy

5.6.1 Corporate Strategy is forecasting a £0.029m pressure. The variance reflects a forecast underachievement in the 'cross-service' income target within Corporate Strategy Management, which is nearly fully mitigated by forecast underspends within Policy, Performance & Research and Participation & Advocacy.

5.6.2 Table 23: Forecast Variation Corporate Strategy

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Children's Participation & Advocacy	0.258	0.243	(0.015)	(0.015)	0.000
Corporate Strategy Management	(0.221)	(0.081)	0.140	0.141	(0.001)
Elected Mayor & Executive Support	0.018	0.026	0.008	0.008	0.000
Marketing	0.289	0.245	(0.044)	(0.044)	0.000
Policy Performance and Research	0.140	0.080	(0.060)	(0.060)	0.000
Grand Total	0.484	0.513	0.029	0.030	(0.001)

5.7 Resources and Chief Executive Office

5.7.1 Overall Resources and Chief Executive Office are currently forecasting a joint pressure of £0.551m. The main reason for the movement since September is the transfer of the North of Tyne Accounts from Central, as the service area has a

forecast pressure of £0.080m.

5.7.2 Table 24: Forecast Variation Resources and Chief Executive

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Chief Executive	(0.078)	(0.118)	(0.040)	(0.031)	(0.009)
Finance	(0.212)	(0.203)	0.009	(0.068)	0.077
ICT	2.876	3.016	0.140	0.140	0.000
Human Resources	0.538	0.531	(0.007)	0.001	(0.008)
Internal Audit	(0.079)	(0.062)	0.017	0.000	0.017
Revenues & Benefits	0.520	0.952	0.432	0.444	(0.012)
Grand Total	3.565	4.116	0.551	0.486	0.065

5.7.3 The Revenues and Benefits service is showing an overall pressure of £0.432m. This is due mainly to the full case reviews, which are currently being undertaken and are expected to continue. The full pressure for Revenues & Benefits is made up of:

- Subsidy reporting an overall pressure of £0.121m and is due to eligible overpayments for which the Authority only receives 40% from the Department of Work and Pensions.
- Overpayment income is now showing a pressure of £0.076m, due to the additional overpayment income generated during the full case reviews.
- The Bad Debt Provision is showing a pressure of £0.276m, which is due to the additional overpayment income raised.
- Enforcement income is currently forecasted to be in line with budget and will be updated on a monthly basis using the cost of collection statistics.
- The team's costs are showing a forecast saving of £0.041m.

These forecasts are being carefully managed by the service management and will continue to be refined as the year progresses.

5.7.4 The Finance service is forecasting a movement of £0.077m, now showing a small £0.009m pressure. The main reason for the movement is the transfer of North of Tyne Combined Authority balances from Central service area, which is showing a pressure of £0.080m

5.7.5 There is a pressure within ICT as a result of the transfer of Education ICT income targets with a forecast £0.140m shortfall in SLA income within the service.

5.7.6 The remaining service areas within Resources are all forecasting small underspends for the year.

5.7.7 The Chief Executive's office is showing a saving of £0.040m, due to forecast savings in staffing and other operational spend.

5.8 Law and Governance

5.8.1 Law and Governance is forecasting a £0.469m pressure. This variance reflects forecasted cost pressures in Legal Services of £0.290m mainly relating to the employment of Locums and other staff costs and £0.177m pressure for delivering North Tyneside Coroner services.

5.8.2 **Table 25: Forecast Variation for Law and Governance**

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sep £m	Change since Sep £m
Customer, Governance & Registration	(0.071)	(0.039)	0.032	0.030	0.002
Democratic and Electoral Services	0.031	0.086	0.055	0.067	(0.012)
Information Governance	0.159	0.074	(0.085)	(0.075)	(0.010)
Legal Services	(0.105)	0.185	0.290	0.288	0.002
North Tyneside Coroner	0.294	0.471	0.177	0.175	0.002
Grand Total	0.308	0.777	0.469	0.485	(0.016)

5.8.3 The variance change compared from the last reported forecast to Cabinet is due to reduced forecast operational expenditure across Information Governance as well as lower employee costs forecast across Democratic & Electoral Services.

5.9 Central Items

5.9.1 Central Items is forecasted to be in surplus by £8.264m, an improvement of £0.816m from the September report. The improvement is due to an improvement of (£0.486m) relating to interest savings, an improvement of (£0.250m) relating to Apprenticeship Levy and a transfer of a cost centre relating to the North of Tyne Combined Authority to Resources which has a forecast pressure of £0.080m. The surplus figure of £8.264m includes the contingency budgets of £5.404m of which £3.116m of that budget provision relates to the pressure being experienced in Children's Services. The other main areas impacting the position are summarised below:

- Strain on the fund savings of £1.074m, due to minimum in-year costs anticipated this financial year.
- Minimum revenue provision savings of £0.550m,
- Interest savings on borrowing of £0.986m, both of these arising from re-profiling of the Investment Programme and use of cash balances to minimise borrowing.

5.9.2 Corporate and Democratic Core may see savings in 2021/22 due to anticipated pressures not being seen to materialise to date and the costs of pensions out of revenue but is prudently forecasted to be balanced at this stage in the year. This may reduce across the rest of the year and provide some sustainable savings.

5.9.3 Table 26: Forecast Variation Central Budgets and Contingencies

Service Areas	Budget £m	Forecast Nov £m	Variance Nov £m	Variance Sept £m	Change since Sept £m
Corporate & Democratic Core	3.351	3.351	0.000	0.000	0.000
Other Central Items	(6.366)	(14.630)	(8.264)	(7.448)	(0.816)
Grand Total	(3.015)	(11.279)	(8.264)	(7.448)	(0.816)

SECTION 6 - SCHOOLS FINANCE

6.1 Update on 2021/22 Budget Monitoring for Schools

6.1.1 Cabinet will recall that the overall level of school balances at the end of March 2021 was £3.721m compared to £0.165m as at March 2020. This represented an increase in balances of £3.556m.

6.1.2 The first set of monitoring for the 2020/21 year is almost complete, with schools overall showing a £2.091m improvement against budget plans. However, a number of schools have had difficulty completing their monitoring statements due to issues with high needs (SEN) funding forecasts. The lack of clarity on SEN funding has been the main issue, also problems reporting funding through budget tools.

6.1.3 Two schools have moved out of deficit following allocation of covid related Containment funding for costs in 2020/21, although at least one school is reporting a new forecast deficit over £5,000 due to issues with SEN funding, which needs further investigation. In addition, five more schools are forecasting at budget until their issues can be resolved. The summary of balances by phase is shown in the Table below.

6.1.4 Table 27: School balance position against plan (committed and uncommitted)

Phase	OUTTURN 2020/21 £m	BUDGET PLAN 2021/22 £m	MONITORING 1 2021/22 £m	IMPROVEMENT 2021/22 £m
Nursery	0.124	0.082	0.074	(0.008)
First	1.291	0.832	0.910	0.078
Primary	6.055	3.061	3.537	0.476
Middle	1.013	0.414	0.506	0.092
Secondary	(5.577)	(9.808)	(8.915)	0.893
Special/PRU	0.815	(0.574)	(0.014)	0.560
Total	3.721	(5.993)	(3.902)	2.091

6.1.5 The position of schools in deficit improved by £0.910m by the first set of monitoring compared with their budgeted outturns. It should be noted that Greenfields Primary have had issues with reporting on funding so the school's forecast is shown at budget, although their balances excluding funding were showing an improvement against budget.

6.1.6 Deficit review meetings have been held between the representatives of the Head of Resources and the Head of Health, Education, Care and Safeguarding and the various Heads and Chairs of Governors of schools under a deficit approval agreement.

6.1.7 Table 28: Position of Deficit Schools after Monitoring 1

Phase	OUTTURN 2020/21 £m	BUDGET PLAN 2021/22 £m	MONITORING 1 2021/22 £m	IMPROVEMENT 2021/22 £m
Greenfields Primary	(0.131)	(0.084)	(0.084)	0.000
Ivy Road Primary	(0.165)	(0.198)	(0.175)	0.023
Norham High	(3.064)	(3.969)	(3.819)	0.150
Longbenton High	(2.334)	(2.618)	(2.305)	0.313
Monkseaton High	(4.815)	(5.689)	(5.527)	0.162
Beacon Hill	(0.244)	(1.241)	(0.979)	0.262
TOTAL	(10.753)	(13.799)	(12.889)	0.910

6.2 Update on DSG Illustrative funding 2022/23 Allocations

- 6.2.1 In September 2017 the Department for Education (DfE) published the response to the stage 2 national funding formula consultation and confirmed the details of the National Funding Formula (NFF) for the Schools block. In 2022/23 the Dedicated Schools Grant (DSG) will continue to be comprised of four blocks covering: Schools, High Needs, Early Years and the Central School Services. Each of the four blocks has their own funding formula.
- 6.2.2 In 2022/23, as in 2020/21 and 2021/22, the Authority will receive its DSG funding based on the revised DfE National Funding Formula. In October 2021 the DfE published indicative allocations under the NFF at a school level using October 2020 census data. This shows the funding level for each mainstream school based on the NFF using the 2022/23 Primary Unit of Funding (PUF) and Secondary Unit of Funding (SUF) with October 2020 pupil numbers. This information is for planning purposes only as local formulae used by each local authority can still vary from the NFF within the guidance issued by the DfE. The initial DSG allocation to the Authority for 2022/23 will be published in December 2021 using the October 2021 census results.
- 6.2.3 The link to the school level NFF allocations using October 2021 census data information is shown below: -
<https://www.gov.uk/government/publications/national-funding-formula-tables-for-schools-and-high-needs-2022-to-2023>
- 6.2.4 The DfE initially proposed a two-year transition period (2018/19 and 2019/20) where local authorities will continue to set a local formula to distribute funding to individual schools. However, in July 2018, as a result of the significant movement witnessed towards the NFF, the Government confirmed that these transitional arrangements would continue into at least 2020/21. In 2020, the DfE again confirmed that the transitional arrangements will continue into 2021/22. This has continued into 2022/23, with the earliest expected move to “hard” NFF being likely in 2023/24.

6.2.5 The Schools NFF for 2022/23 will continue to have the same factors as at present. The Government announced its intention to implement the formula to address historic underfunding and move to a system where funding is based on need. The key aspects of the formula for 2022/23 are:

- The minimum per pupil funding levels will be set at Primary £4,265, Key Stage 3 £5,321 and Key Stage 4 £5,831; and
- The funding floor will be set at 2.0% per pupil. This minimum increase in 2022/23 allocations will be based on the individual school's LFF allocation in 2021/22.

In addition, two important restrictions will continue:

- Local authorities will continue to set a Minimum Funding Guarantee in the local formula, which in 2021/22 must be between +0.5% and +2%. This allows them to mirror the real terms protection in the NFF, which is the Government's expectation; and
- Local authorities can only transfer up to 0.5% of their School Block to other blocks of the DSG, with their schools' forum approval. To transfer more than this, or any amount without their schools' forum approval, they will have to make a request to the Department for Education, even if the same amount was agreed in the past two years.

6.2.6 The North Tyneside illustrative allocation for the Schools block, Central Schools Services block and High Needs block in 2022/23 (using census 2020 i.e. static pupil numbers) is shown below with the 2017/18 to 2021/22 figures for comparison. The Early Years Block value for 2022/23 is based on 2021/22 rates and uses prior year pupil numbers, as the DfE have not published this information at time of writing.

6.2.7 Table 29: 2022/23 Illustrative allocation compared with prior year actuals

	2017/18 Base £m	2018/19 £m	2019/20 £m	2020/21 £m	2021/22* £m	Notional for 2022/23* £m	2021/22 to 2022/23 £m
Schools	115.395	116.594	120.926	126.794	137.231	140.047	2.816
Central Services	2.500	2.314	2.343	2.051	1.877	1.727	(0.150)
High Needs	18.680	19.291	19.818	22.319	26.709	28.830	2.121
Early Years Block	12.064	12.553	12.514	12.771	13.946	13.946 ^T	0.000
TOTAL	148.639	150.752	155.601	163.935	179.763	184.550	4.787
17/18 Base Move £m	-	2.113	6.962	15.296	31.124	35.911	
17/18 Base Move %	-	1.42%	4.68%	10.29%	20.94%	24.16%	
Change per Year £m	-	2.113	4.849	8.334	15.828	4.787	
Change per Year %	-	1.42%	3.22%	5.36%	9.66%	2.66%	
PUF	-	£3,770	£3,860	£4,083	£4,425	£4,539	
SUF	-	£5,273	£5,305	£5,427	£5,841	£5,988	
MPPF: Primary	-	£3,300	£4,600	£3,750	£4,180	£4,265	
MPPF: Secondary	-	£4,600	£5,100	£5,000	£5,415	£5,525	

* Includes pay award grants previously separate to DSG

^T No information from DSG, so based on last year.

6.2.8 Within North Tyneside, modelling work is continuing based on the information currently available. At this stage, before initial allocations based on the October 2021 census are announced by the DfE, we are proposing to implement the revised minimum per pupil funding rates published by the DfE for 2022/23.

6.3 National Funding Formula Consultation for 2022/23

6.3.1 The method for allocating funding to schools is still set by a local funding formula (LFF), though DfE are considering making their national funding formula (NFF) mandatory in the future. For 2021/22, North Tyneside have agreed with Schools Forum to adopt the NFF factors in their LFF.

6.3.2 For 2022/23 the Authority asked Schools Forum to consider modelling a potential option to transfer the maximum funding from Schools Block to High Needs. Guidance states that a local authority can transfer up to 0.5% with agreement from the local Schools Forum. This would amount to approximately £0.700m on indicative grant values.

6.3.3 Transfers have been made to the High Needs block from the Schools block in previous years. These transfers were consolidated into the High Needs block as part of rebasing exercises carried out in 2016/17 and 2017/18 by the DfE. There is currently no mechanism for transfers to be permanently consolidated into the High Needs block (as both blocks are on a formula basis with the historic element of the High Needs block referenced to a 2017/18 baseline).

6.3.4 As Schools Forum did not agree to the transfer, the Local Authority can ask the Secretary of State to approve the transfer, although this is usually only agreed by exception.

6.3.5 Schools Forum did agree that the Local Authority should continue to mirror the funding factors and formulae used in the National Funding Formulae, and set a minimum funding guarantee and capping rate, subject to affordability, based within the required range.

6.4 Update on High Needs Block Balances 2021/22

6.4.1 Cabinet will recall from the previous finance report that the High Needs block of the Dedicated Schools Grant (DSG) was anticipating an in-year pressure of £3.673m in September, which raised the cumulative pressure on the block to £12.553m.

6.4.2 The forecast for the High Needs Block at November 2021 is now an anticipated in-year pressure of £3.763m with a cumulative position of £12.643m reflecting a further rise in demand for special school places within the Authority. A breakdown of the in-year pressure is shown in Table 30.

6.4.3 Table 30: Breakdown of High Needs Pressures at November 2021

Provision	Budget	Forecast November	Variance	Comment
	£m	£m	£m	
Special schools and PRU	15.519	17.601	2.082	Pressure on places for children with profound, Multiple Learning Difficulties, Social Emotional and Mental Health problems and Autism Spectrum Disorder
ARPs/Top ups	4.120	4.968	0.848	Pressures in pre 16 top ups e.g. Norham ARP
Out of Borough	2.890	3.662	0.772	Increased number of children placed outside North Tyneside Schools
Commissioned services	3.888	3.949	0.061	
Subtotal	26.417	30.180	3.763	
2020/21 b/f			8.880	
Subtotal			12.643	

6.5 High Needs Recovery Plan and 2022/23 illustrative allocation

6.5.1 North Tyneside is an outlier in terms of the number of Education Health and Care Plans currently in use. The most recent figures suggest that the Authority are around 1% above the national average in terms of whole population. This has a significant impact on all the services that work with our children and young people with additional needs.

6.5.2 An informal discussion with the Education Skills and Funding Agency (ESFA) took place on 16 June where the Authority outlined its progress in relation to a recovery plan for high needs expenditure. These proposals have been shared with stakeholders including Schools Forum on 7 July. A High Needs Recovery Plan was submitted to the ESFA by 13 August and the plan sought to address the High Needs deficit by 2025-26. The themes of the recovery plan link clearly to our SEND Inclusion Strategy and our Ambition for Education:

- Improved Graduated Approach to support more young people to have success in their local school;
- Review of Commissioned Services with a focus on maintaining young people in their local school;
- Annual reviews are focussed, timely and include 'value for money';
- The banding and mechanisms the Authority uses to fund schools are brought in line with our graduation aspirations;
- Use of capital funding to address issue around capacity;

- More effective place planning and projection is used to ensure that there are sufficient resources in place; and,
- Ensuring that the Authority are working with our partners and stakeholders.

6.5.2 The indicative value of the High Needs block in 2021/22 based on static rolls is as follows:

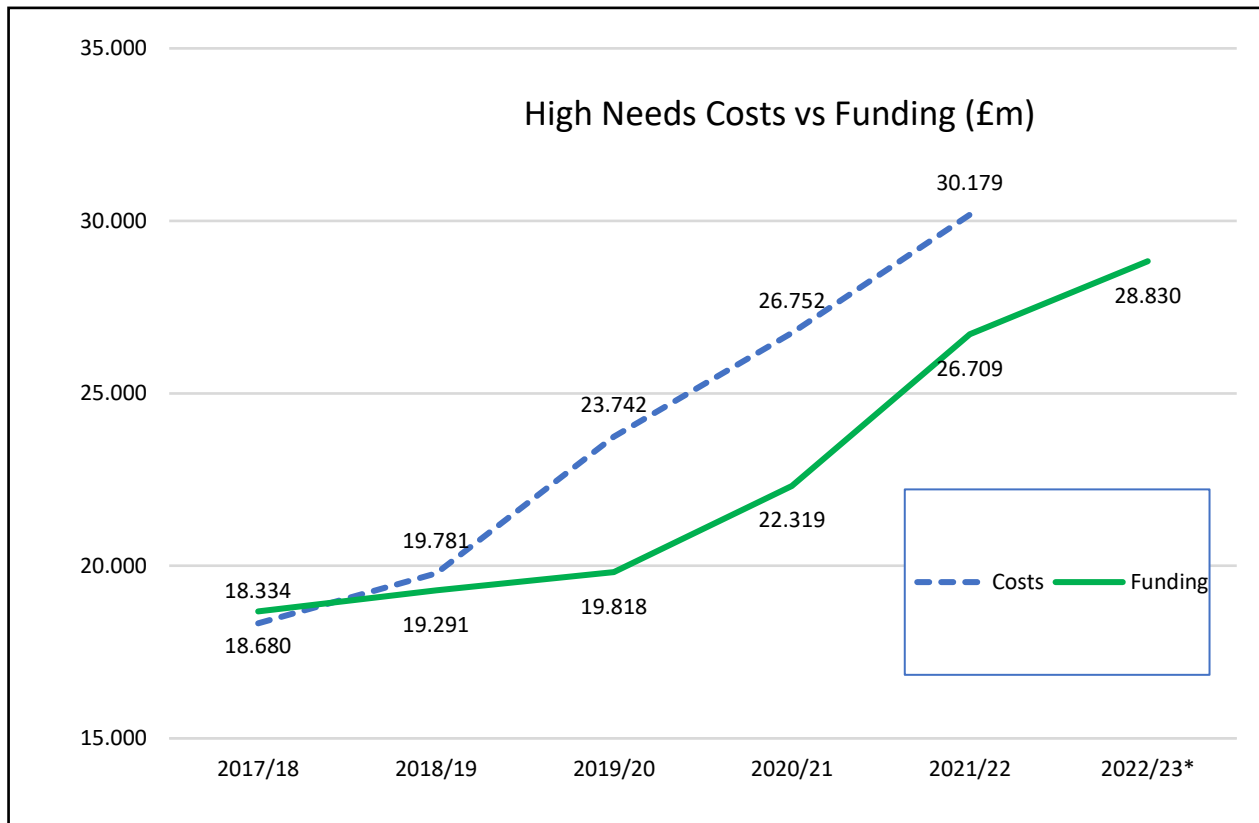
6.5.3 Table 31: Indicative High Needs Block Values 2022/23 compared to prior years

	2017/18 Baseline	2018/19	2019/20	2020/21	2021/22	Notional for 2022/23*
	£m	£m	£m	£m	£m	£m
High Needs	18.680	19.291	19.818	22.319	26.709	28.830
17/18 Base Move £m	-	0.611	1.138	3.639	8.029	10.150
17/18 Base Move %	-	3.27%	6.09%	19.48%	42.98%	54.34%
Change per Year £m	-	0.611	0.527	2.501	4.390	2.121
Change per Year %	-	3.27%	2.73%	12.62%	19.67%	7.94%

* Indicative only

6.5.4 The funding increases since 2017/18 have been ahead of inflation but still lag behind the actual costs of High Needs over the same period, as can be seen in chart 7 below. To make more sense of this chart, it has to be pointed out that the costs per placement for EHCPs have not been increased for inflation in over 10 years. The increase in costs is purely down to volume increases.

6.5.5 Chart 7: High Needs Costs vs Funding 2017/18 to 2022/23



6.6 Early Years Block Update for 2020/21 Outturn Position

6.6.1 The Early Years block outturn for 2020/21 was a surplus of £0.341m. All provisions are forecast to be provided on budget for the year.

6.7 Indicative Central Block Funding for 2022/23

6.7.1 The make-up of the Central School Services Block (CSSB) has changed from 2019/20, with further changes to be implemented in 2022/23. Funding is comprised of a historic commitments' allocation and a formula-based amount for ongoing functions. Table 32 shows the impact of the indicative funding for 2022/23, which reflects the DfE's plan to reduce funding of CSSB. The historic commitments element has been reduced by 20% per annum, in line with strategic DfE published plans over the last two years.

6.7.2 Table 32: Indicative allocations for North Tyneside CSSB 2022/23 compared to prior years DSG funding

	2019/20	2020/21	2021/22	Notional 2022/23	Annual Change	
	£m	£m	£m	£m	£m	%
Historical Commitments	1.555	1.244	0.995	0.796	(0.199)	(20.00%)
Ongoing Functions	0.788	0.807	0.882	0.931	0.049	5.56%
Total	2.343	2.051	1.877	1.727	(0.150)	(7.99%)
17/18 Base Move £m	-	(0.292)	(0.466)	(0.616)		
17/18 Base Move %	-	(12.46%)	(19.89%)	(26.29%)		
Change per Year £m	-	(0.292)	(0.174)	(0.150)		
Change per Year %	-	(12.46%)	(8.48%)	(7.99%)		

6.7.3 Forum will recall that the 2021/22 decrease in CSSB funding (£174k) was to be met by reducing funding on the following functions:

- High Borrans (£95k);
- De-commissioned School Buildings (£30k);
- School Support Service (£29k);
- Education Improvement Partnership (£20k)

To reduce the impact on the Council services, the drop in CSSB funding was replaced by Headroom funding in 2021/22. The remaining 2021/22 CSSB funding allocations are in table xx below.

6.7.4 The 2022/23 indicative reduction in CSSB will need to be taken from the remaining functions funded by CSSB on behalf of schools. The relevant services will be reporting back to Forum in January 2022 to ratify these changes and to agree any services, including additional functions, to be funded by de-delegation.

6.7.5 Table 33: CSSB Funding Allocations by Function for 2021/22

Budgets which now form part of the CSSB	CSSB 2021/22 £
Budget to fund the Schools Support Service	556,256
Budget to support vulnerable schools.	52,044
Budget to maintain High Borrans Outdoor education facility	0
Budget for the Education Improvement Partnership (secondary schools)	80,318
Budget to support the informational requests of the Schools Forum and improved budgetary awareness across all schools	30,125
Collective contribution to ongoing pension costs incurred when allowing teachers to leave schools prematurely	624,951
Budget for costs associated with de-commissioned school buildings	0
Schools admission service	141,570
Former Education Services Grant (Retained)	243,572
National Copyright Licences	148,169
Total CSSB Funding	1,877,005

SECTION 7 - HOUSING REVENUE ACCOUNT

Forecast Outturn

7.1 The forecast set out in Table 34 below is based on the results to November 2021. Currently the HRA is forecasting an underspend of £0.378m, which includes £0.016m of Covid-19 related costs (see Table 28). Throughout the remainder of the year, costs will continue to be monitored closely across all areas with additional focus on Rent Arrears and the effect this has on the bad debt provision. In addition, changes to prudent assumptions around rental income, Council Tax voids, Contingency and staffing vacancies will be monitored which could lead to improvements in the forecast position.

7.2 Table 34: Forecast Variance Housing Revenue Account

	Budget £m	Current Forecast £m	Variance £m
Management – Central	2.520	2.456	(0.064)
Management – Operations	4.767	4.817	0.050
Management – Strategy & Support	3.588	3.564	(0.024)
Capital Charges – Net Effect	12.969	12.969	0.000
Contingencies, Bad Debt & Transitional Protection	1.280	0.794	(0.486)
Contribution to Major Repairs Reserve – Depreciation	13.276	13.276	0.000
Interest on Balances	(0.050)	(0.050)	0.000
PFI Contracts – Net Effect	2.043	2.343	0.300
Rental Income - Dwellings, Direct Access Units, Garages	(60.995)	(61.091)	(0.096)
Rental Income – HRA Shops and Offices	(0.356)	(0.403)	(0.047)
Revenue Support to Capital Programme	10.551	10.551	0.000
Repairs	12.350	12.339	(0.011)
Total	1.943	1.565	(0.378)

7.3 The Covid-19 costs for HRA relate to unproductive workforce costs, as can be seen in Table 35 below.

7.4 **Table 35: Forecast Impact of Covid-19 on HRA for 2021/22**

Service Area	Covid Cost Pressure £m	Covid Income Pressure £m	Total Covid Pressure £m	Description
HRA – Workforce	0.016	0.000	0.016	Costs of carrying unproductive staff resource and related support costs during downtime, for staff delivering HRA-related work
Total	0.016	0.000	0.016	

Rental Income

7.5 There have been some small trending improvements in different elements of Rental Income which have led to the previous on budget forecast increasing to an overall forecast underspend of (£0.143m). This is made up of improvements in General Needs Income (£0.005m); Service Charge Income (£0.057m); Garage Rents (£0.034m); and rental income from other properties (£0.047m). This improving position will be monitored closely to see if there could be any further shift in the forecast during the second half of the year.

Bad Debt Provision and Management Contingency

7.6 Main changes in the forecast relate to the Bad Debt Provision, as Arrears continue to rise but at a much slower rate than anticipated this will result in a forecast £0.301m underspend in-year. In addition, the Management Contingency is forecast to be significantly underspent (£0.186m), which accounts for the overall £0.487m underspend in this area.

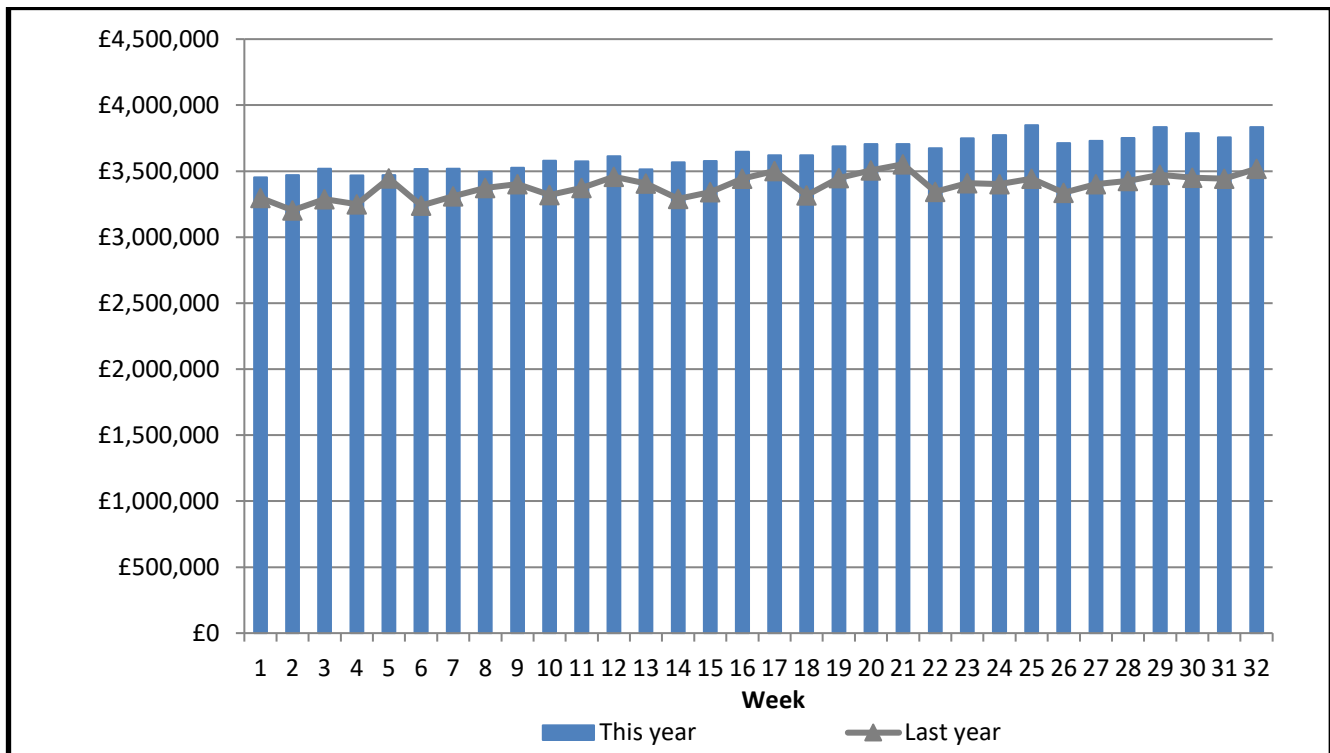
PFI Contract Costs

7.7 Following the precedent set in the previous two years because of the forecast overall improved position relating mainly to the Bad Debt Provision, the Authority is proposing to make an additional in-year contribution to the North Tyneside Living PFI Reserve (£0.300m), in order to bring the position back in line with the financial model more quickly, following a number of Use of Reserves decisions which borrowed over £4.000m from the Reserve, namely purchase of the HPC Fleet and the one-off £1.5m Settlement Agreement signed with the PFI Construction Contractor.

Rent Arrears

7.8 The impact of rent arrears has risen in the first eight months of 2021/22 as compared to 2020/21, however the rate of increase during those first eight months is slower than originally forecast, with current arrears increasing by around £0.369m during the period since the start of April 2021. Chart 8 below shows the value of current rent arrears in 2021/22 compared to the same period in 2020/21. A team is working proactively with tenants to minimise arrears, and this is being closely monitored as the year progresses to identify any adverse impacts on the budget position. Last year saw a significant underspend against the bad debt provision, which had overspent for the previous two years. Based on the current rate of increase in arrears and the anticipated amount of bad debt to be written off this has led to the underspend declared above in-year. This will also be considered in relation to the refresh of the HRA Business Plan which forms the basis of the budget proposals being considered by this meeting of Cabinet. The impact of Universal Credit (UC) continues to be monitored, as significant increases in numbers on UC could adversely affect the rate at which arrears grow.

7.9 **Chart 8: Rent Arrears in Weeks 1-32 (April-Nov) 2021/22 compared to 2020/21**

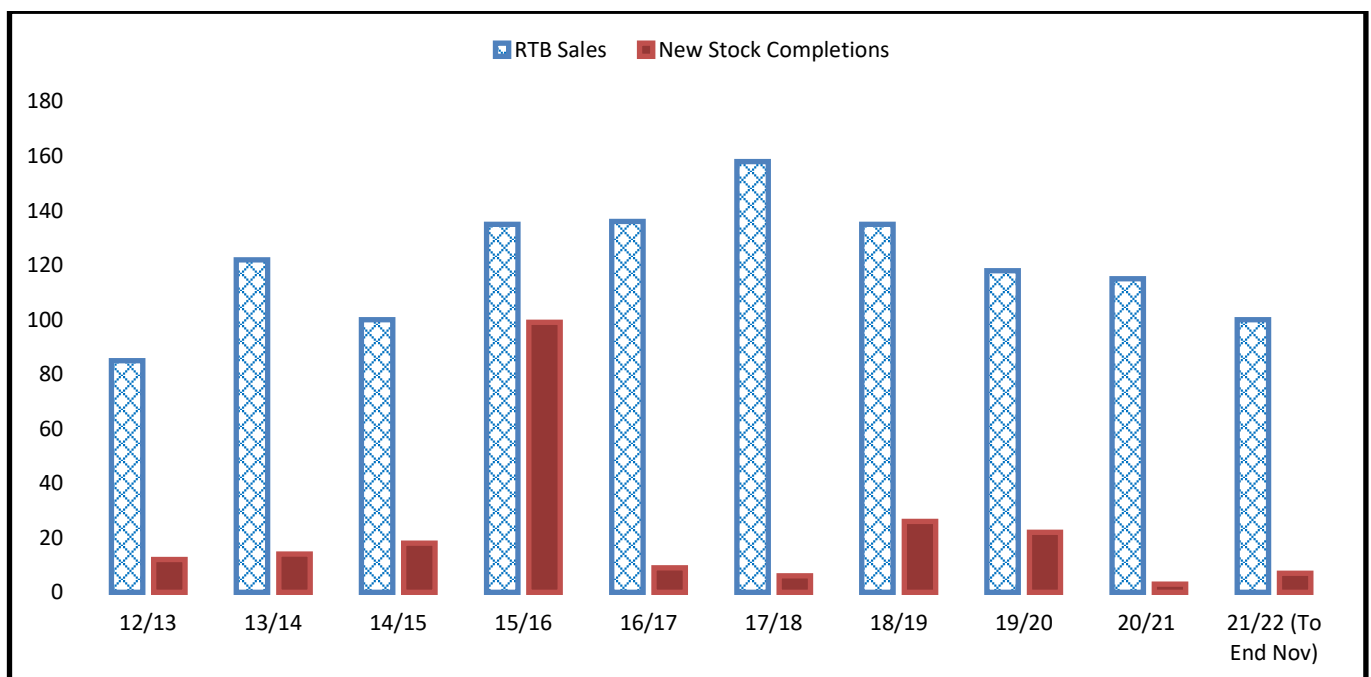


7.10 Universal Credit was fully implemented across North Tyneside on 2 May 2018. The Authority continues to work with residents to provide ICT support to help them make applications and to provide personal budget support to help residents manage their household finances. At 31 March 2021 there were 3,306 tenants of North Tyneside Homes on Universal Credit with arrears totalling £2.689m. By the end of November 2021 there were 3,716 tenants on Universal Credit (increase of 410 tenants) with related arrears of £2.947m (increase of £0.258m). These figures seem to bear out the reduced rate of increase in arrears mentioned above.

Right to Buy (RTB) Trends

7.11 The impact of RTB is critical to long-term planning for the HRA. Prior to the introduction of self-financing in 2012, average RTB sales had dropped to around 25 per annum, mainly due to the capped discount (£0.022m) which had remained static as property values had increased, making RTB less attractive financially to tenants. Shortly after self-financing began, Central Government announced a change to RTB significantly increasing the maximum discount, initially to £0.075m and then subsequently annual inflation was added to the maximum. Chart 9 below shows the trend in RTB sales since that time. There has been an upturn in sales in 2021-22, as 100 properties were sold to the end of November compared to 73 at the same stage last year.

7.12 **Chart 9: Yearly RTB Sales v New Stock Additions**



SECTION 8 - INVESTMENT PLAN

- 8.1 The Authority's Investment Plan represents the capital investment in projects across all Service areas. Officers continue to plan the delivery of those key projects included within the 2021/22 Investment Plan and regularly review the impact of Covid-19.
- 8.2 There is a continuing risk around the supply of materials and increased cost that could impact the works and services the Authority delivers. This is a national issue with material supply not being able to keep pace with delivery programmes alongside a range of rising costs. Work is on-going with both material suppliers and the wider supply chain to understand how significant these impacts could be on the delivery and cost of works and services during this year. Specific areas of concern are around the supply and costs of all steel based and softwood products, along with growing concerns around the supply of cement and glazing. A risk register around material supply is currently being developed to monitor the likelihood and impact of these risks materialising, however it looks increasingly likely that the Authority will have some supply issues and increased costs that will impact our works and services over the coming months. This will be reported through the bi-monthly monitoring reports to Cabinet.
- 8.3 The recent storms and their aftermath have created additional risks around delivery of the programme and the potential for further increases in costs. HPC staff have been redeployed as part of the clearance and rebuilding process meaning some ongoing projects have been suspended for temporary periods. Issues in the supply chain for some materials have also been exacerbated. The situation is being kept under constant review and any changes that arise will be reported through the bi-monthly monitoring reports to Cabinet.
- 8.3 Some of the key highlights of the Investment Plan due to be delivered during 2021/22 are summarised below:

Affordable Homes New Build and Conversion Works

- 8.4 There are currently 4 affordable home projects that will progress during 2021/22, these include:
- The construction of 12 new affordable homes on the former site of the Cedars, North Shields;
 - The construction of 9 new affordable homes on the former site of Bawtry Court, Battlehill;
 - Refurbishment and remodelling works to create 7 new affordable units at Charlotte Street, Wallsend; and,
 - Convert a Brownfield garage site in Falmouth Road, into 9 new affordable homes.

Housing Investment Work

- 8.5 The Housing Capital delivery programme will see the following works delivered across the borough during 2021/22:
- Kitchens and bathrooms to 678 homes;
 - Heating upgrades to 600 homes;
 - Window and doors replacements to 30 homes;
 - Boundary improvements to 830 homes;
 - Roof replacements to 227 homes;
 - External Brickwork Repairs to 223 homes;
 - Damp Proof Course restoration works to 26 homes;
 - Footpath repairs throughout the borough; and,
 - Fire door replacement to 55 communal blocks.

Education Investment Works

- 8.6 Delivery of the priority condition related projects across the school estate as part of the Schools Condition Investment Programme

Asset Investment works

- 8.7 Delivery of the priority condition related projects across the asset property estate as part of the Asset Condition Investment Programme

Highways and Infrastructure Works

- 8.8 The main Highways & Infrastructure works include:
- Delivery of the LTP including the annual resurfacing programme and integrated transport projects. Larger projects are the construction phase of the Pier Road stabilisation scheme the demolition of Borough Road Bridge;
 - Delivery of the Additional Highway Maintenance Programme including footway improvements in line with the Mayor's priorities; and,
 - Progression of the Tanners Bank highway improvement scheme at various junctions in North Shields.

Regeneration Works

- 8.9 Regeneration Works for 2021/22 include:
- North Shields – continuation of works for the North Shields Heritage Action Zone scheme for Northumberland Square and Howard Street and initial works for the transport hub;
 - Segedunum – completion of the project initiation document to enable the development of proposals and a strategy to secure match funding;
 - Work is ongoing examining the potential options for the enhancement of the facilities at Killingworth Lake; and,
 - Development of outline scope for the Waggonways project.

Variations to the 2021-2026 Investment Plan

8.10 Variations of £4.028m and reprogramming of £6.134m to the Investment Plan have been identified and are included in tables 36 and 37 below. Further details are provided in paragraph 8.11.

8.10.1 **Table 36: 2021 - 2026 Investment Plan changes identified**

	2021/22 £m	2022/23 £m	2023/24 £m	2024-26 £m	Total £m
Approved Investment Plan – Council 18 February 2021	68.611	43.305	42.858	90.796	245.570
Previously Approved Reprogramming/Variations					
2020/21 Monitoring	11.398	0.000	0.000	0.000	11.398
2020/21 Outturn	13.497	0.000	0.000	0.000	13.497
2021/22 August Cabinet	5.087	0.237	0.000	0.000	5.324
2021/22 September Cabinet	(10.480)	8.446	2.886	1.500	2.352
2021/22 November Cabinet	5.518	2.112	2.650	0.190	10.470
Approved Investment Plan	93.631	54.100	48.394	92.486	288.611
Oct/Nov 21 Monitoring Variations					
Variations	0.031	3.997	0.000	0.000	4.028
Reprogramming	(6.134)	5.134	1.000	0.000	0.000
Total Variations	(6.103)	9.131	1.000	0.000	4.028
Revised Investment Plan	87.528	63.231	49.394	92.486	292.639

8.11 Details of the main variations are shown below:

- (a) **BS029 Wallsend Customer First Centre £0.117m** –Concerns were raised at an early stage regarding the volatility within the construction sector market and how this could impact project costs and programme, due to issues surrounding a shortage of resources and increased lead in time. Specific items were identified as having increased significantly due to the volatile market conditions, specifically doors, partition walls and ceiling tiles. After value engineering exercise has been carried out the costs are still above budget. Therefore, a request to drawdown from contingencies of £0.117m has been made;
- (b) **DV078 Bedford Street/Saville Street Public Realm £0.200m** – The funding has been transferred from the Ambition Project to provide designs to an advanced stage to respond to funding opportunities when they arise. The project will develop the approved masterplan proposals upgrading the existing pedestrian areas in Bedford Street, reducing the status of the highway to lower Bedford street to a pedestrian area. The plans will also focus on Saville Street to tie into the current public realm works in Howard Street and Northumberland Square;

- (c) **DV079 Howard Street Cultural Quarter £0.740m** – The Exchange will play a pivotal role within the cultural quarter of the regeneration of North Shields. The project will allow for the external restoration of the building. The works will include new slate roofing, stonework replacement, repointing, window repairs, new rainwater goods and repair to render. There will be associated internal works to address damage caused by water ingress is also an important part of the wider proposals. All works will allow for an improved overall experience at The Exchange. It is proposed the refurbishment will allow The Exchange to become fully operational for commercial and community recreational use again and to bring underused areas back into productive use. The Exchange has received approval to use grant of up to £0.590m from the HAZ Scheme, of which £0.250m had been transferred from DV074 HAZ Project and also match funding of £0.200m from DV073 Ambition Project (see 8.12 (b)) below;
- (d) **CO086 North West Library Improvements £0.129m (22/23)** –This project will renew and improve North West library facilities at the White Swan Customer First Centre, Oxford Centre, John Willie Sams Centre and Wideopen library to provide for an improved customer experience and additional services. This is to be funded by £0.129m of Section 106 planning income;
- (e) **GEN03 Contingencies £0.117m credit** – See (a) above;
- (f) **New Project - Contours Gym Improvement £0.177m** – This project is to replace and upgrade the fitness suite equipment at the Lakeside Centre and Hadrian Leisure Centre. It is to be funded through Section 106 £0.084m contributions and the Leisure reserve £0.093m;
- (g) **HS053 Green Homes Grant £3.700m (22/23)** - The Authority have been successful in securing £3.700m to assist in providing 395 energy efficiency measures in private homes. The phase three funding will support the installation of qualifying measures to improve the energy efficiency of homes in North Tyneside, reduce carbon emissions and provide a catalyst for improving residential energy efficiency in the borough to achieve our climate emergency aspirations; and,
- (h) **IT020 ICT Strategy £0.022m** – There has been a call on the revenue Covid grant to funded additional Netcall Licences due to the pandemic. This has been transferred to the Investment plan to fund the additional capital costs.

8.12 In addition to the variations reported, there has been £6.134m reprogramming identified. The reprogramming is reflected in the following projects:

- (a) **EV083 Street Lighting LED £0.657m** – The start of the LED installations in the final phase of the project is significantly delayed. This is due to a delay in signing a deed of variation (DoV) which must be completed on the PFI contract before orders can be placed;
- (b) **DV073 Ambition North Tyneside £0.400m credit** – Two amounts of £0.200m have been brought forward and then transferred to two of the Ambition Projects to support the design works in preparation of bidding for additional external funding or to provide match funding to grant awarded. The two projects are

DV078 Bedford Street/Saville Street Public Realm (See 8.11 (b)) and DV079 Howard Street Cultural Quarter (See 8.11.(c)).

- (c) **EV094 Transforming Cities Tranche (TCF) 2 £1.250m** – The North East Joint Transport Committee approved £3.240m advanced TCF funding and was included within the financial monitoring report to November Cabinet 2021. As a result of the advanced TCF funding there will be reprogramming of £1.250m council contribution ambition funding to future years;
- (d) **EV097 Weetslade & Westmoor Roundabouts £3.191m** – Works have just started on site and will extend into next financial year with an estimated date of completion of December 2022. Therefore, £3.191m of Section 106 is to be reprogrammed to 2022/23;
- (e) **HS015 Decent Homes Refurbishment £0.440m** – The delivery of the programme is constantly being monitored. One of the risks that are reviewed is the delivery of the schemes due to covid isolations of the workforce and subcontractors. There is now a require to reprogramme £0.440m of works into 2022/23;
- (f) **HS044 HRA New Build £0.650m** – We are awaiting a decision of a grant application for the conversion of a brownfield garage site in Falmouth Road North Shields into 9 new affordable homes using the HUSK MMC Solution. The expected start on site date is now January 2022 to allow for the Homes England application decision, so there is a need to reprogramme £0.650m into 2022/23; and,
- (g) **HS051 Private Sector Homes £0.346m** – There has been a review of the project and the expected amount to be delivered is £0.300m. Therefore, it has been requested to reprogramme £0.346m to 2022/23.

8.13 The impact of the above changes on capital financing is shown in table 37 below.

8.13.1 **Table 37: Impact of variations on Capital financing**

	2021/22 £m	2022/23 £m	2023/24 £m	2024-26 £m	Total £m
Approved Investment Plan	93.631	54.100	48.394	92.486	288.611
Council Contribution	(1.807)	0.807	1.000	0.000	0.000
Grants and Contributions	(3.228)	7.141	0.000	0.000	3.913
Revenue Contribution	0.022	0.093	0.000	0.000	0.115
HRA Capital Receipts	(0,187)	0.187	0.000	0.000	0.000
HRA Major Repairs Reserve	(0.903)	0.903	0.000	0.000	0.000
Total Financing Variations	(6.103)	9.131	1.000	0.000	4.028
Revised Investment Plan	87.528	63.231	49.394	92.486	292.639

Capital Receipts – General Fund

8.14 General Fund Capital Receipts brought forward at 1 April 2021 were £2.583m. The capital receipts requirement for 2021/22, approved by Council in February 2021, was £0.423m (2021-26 £0.677m). There was reprogramming of capital receipts from 2020/21 of £0.342m giving a revised requirement of £0.765m for 2021/22 (2021-26 £1.019m). To date £1.204m useable capital receipts have been received in 2021/22, of which £0.100m are to be used to repay debt. In addition, £4.125m has been received from Aurora to repay loans. The receipts position is shown in table 38 below.

8.14.1 Table 38: Capital Receipt Requirement – General Fund

	2021/22 £m	2022/23 £m	2023/24 £m	2024-26 £m	2021-26 Total £m
Requirement reported to 8 February 2021 Council	0.423	0.254	0	0	0.677
Reprogramming 2020/21 Outturn	0.342	0	0	0	0.342
Revised Requirement	0.765	0.254	0	0	1.019
Receipts Brought Forward	(2.583)	(2.922)	(2.668)	(2.668)	(2.583)
Total Receipts received 2021/22	(5.329)	0	0	0	(5.329)
Receipts used to repay capital loans	4.125	0	0	0	4.125
Receipts used to repay debt	0.100				0.100
Net Useable Receipts	(1.104)	0	0	0	(1.104)
Surplus Receipts	(2.922)	(2.668)	(2.668)	(2.668)	(2.668)

Capital receipts – Housing Revenue Account

8.15 Housing Capital Receipts brought forward on 1 April 2021 were £8.263m. The housing receipts are committed against projects included in the 2021-2026 Investment Plan. The approved Capital Receipt requirement for 2021/22 was £0.750m. This, together with the reprogramming and variations reported to Cabinet, gives a revised requirement of £1.860m. To date, receipts of £5.926m have been received in 2021/22. Previously pooling of receipts was paid quarterly to Central Government but the requirement has changed to an annual pooling payment. Therefore, subject to future pooling, this leaves a surplus balance of £12.329m to be carried forward to fund future years.

8.15.1 Table 39: Capital Receipt Requirement - Housing Revenue Account

	2021/22 £m	2022/23 £m	2023/24 £m	2024-26 £m	2021-26 £m
Requirement reported to February 2021 Council	0.750	1.886	2.871	5.673	11.180
Reprogramming 2020/21 Outturn	1.124	0.000	0.000	0.000	1.124
Variations August 21 Cabinet	0.173	0.000	0.000	0.000	0.173
Reprogramming Jan 21 Cabinet	(0.187)	0.187	0.000	0.000	0.000
Revised Requirement	1.860	2.073	2.871	5.673	12.477
Receipts Brought Forward	(8.263)	(12.329)	(10.256)	(7.385)	(8.263)
Receipts Received 2021/22	(5.926)	0.000	0.000	0.000	(5.926)
Receipts Pooled Central Government	0.000	0.000	0.000	0.000	0.000
(Surplus)/ Balance To be generated to fund future years (subject to further pooling)	(12.329)	(10.256)	(7.385)	(1.712)	(1.712)

The final figure for useable receipts and pooled receipts in year will depend on the final number of Right to Buy properties sold during 2021/22.

Investment Plan Monitoring Position to 30 November 2021

8.16 Actual expenditure for 2021/22 in the General Ledger was £31.772m; 36.30% of the total revised Investment Plan at 30 November 2021. This is after adjusting for £0.059m of accruals relating to 2020/21 expenditure.

8.16.1 Table 40: Total Investment Plan Budget & Expenditure to 30 November 2021

	2021/22 Revised Investment Plan £m	Actual Spend to 30 Nov 2021 £m	Spend as % of revised Investment Plan %
General Fund	56.871	17.614	30.97%
Housing	30.657	14.158	46.18%
TOTAL	87.528	31.772	36.30%

SECTION 9 – TREASURY MANAGEMENT & CASH POSITION

Current Cash Position

- 9.1 The Authority's current available cash balance as at the end of November 2021 is £46.919m, with £20.000m invested externally with other UK Local Authorities. All investments are made in line with the approved Treasury Management Strategy.

Bank Rate was not increased at the last BoE meeting in November, at the time Markets had priced in a rate increase and the lack of change weighed on market sentiment.

However, with reports of the new Omicron COVID variant spreading it is expected rates will remain lower for longer until the true impact of Omicron is established.

The Authority remain well positioned with surplus cash available to facilitate future uncertainties.

9.2 **Table 41: Investment Position as at 31/07/2021**

Counterparty	Type	Amount (£m)	Maturity
DMO	Term	30.000	01 Dec 2021
DMO	Term	10.000	15 Dec 2021
Barclays	Call	1.919	n/a
Lloyds Bank	Call	5.000	n/a
Inter – LA	Fixed	20.000	30 Aug 2022*

**This is the last maturity of this tranche.*

- 9.3 Due to the continued low interest rate environment the strategy will remain to repay maturing debt.

Short-term cash investment rates remain at all-time lows and an opportunity has been taken to maximise investment returns by investing longer and locking in investment returns by undertaking forward dated transactions. Forecast investment income excluding DMO investment is anticipated to be £0.081m for the year 2021/22.

- 9.4 The approach of maintaining low cash balances has been part of the strategy for a number of years and has generated substantial savings year on year. The government's Debt Management Office (DMO) and other deposit investment rates are currently negative, taking into account CHAPS transfers fees and principal invested, it is costing the Authority to invest surplus cash. Therefore, the Authority is investing longer to reduce transactional costs as well as maximise returns. The temporary borrowing market is currently very liquid with significant cash available at very low rates. A summary of rates available is shown in table 35 below. PWLB rates also continue to remain low due to the low Gilt yields, which they are tracked against.

9.5 **Table 42: Summary of Borrowing Levels**

Temporary Market		PWLB	
Tenor	Level	Tenor	Level
1 week	0.01%	2 years	1.40%
1 month	0.01%	5 years	1.59%
3 months	0.02%	10 years	1.80%
6 months	0.10%	20 years	1.99%
9 months	0.15%	30 years	1.91%
12 months	0.20%	50 years	1.62%

**Please note interest rates are as 03 Dec 2021*

PWLB rates do not include certainty rate reductions,

9.6 Any shortfalls in cashflow are covered by in year temporary borrowing, which is a quick and cost-effective method of cash management in the current situation.

Borrowing Position

9.7 Table 43 shows the Authority's current debt position.

Table 43: Current Debt Position

	PWLB (£m)	LOBO (£m)	Temp (£m)	Total (£m)
Total Outstanding Borrowing Debt	397.443	20.000	0.000	417.443
Debt Maturing 2021/22	0.000	0.000	0.000	0.000

Covid-19 Impact on Cash

9.8 The impact of Covid-19 on cashflow for the Authority has resulted in several large grants being front loaded and a lumpy grant income profile to the Authority. In March 2020, the Authority drew down £25.000m of PWLB to bolster the Authority's cash position, de-risk our borrowing requirement and take advantage of historically low levels in PWLB, and by doing so has contributed to the continued the surplus cash balance. Whilst a proportion of this is currently invested out for a fixed term, the Authority is currently carrying a cash surplus balance. However, it is anticipated this surplus will unwind as the Authority resumes business as usual and expenditure previously put on hold due to the pandemic can resume. Projected reduced revenue streams, increased costs and repayment of outstanding debt is forecast to utilise cash balances within the year. It is therefore prudent to assume the Authority will be in a deficit cash position to the amount of the projected budget pressure.

The Authority is under-borrowed to the value of £95.166m as at 31 March 2021, and whilst the Authority cannot borrow to fund this revenue pressure however, it can look to utilise reserves, unwind its under-borrowed position and externalise borrowing.

Money Market Funds

- 9.9 The Authority is currently looking at Money Market Funds to provide additional liquid investment options. The funds are an approved investment instrument within the Treasury Management strategy.

The benefit of using money market funds include funds being low risk investments, highly liquid and providing an option to minimise the cost of investment with DMO when negative.

SECTION 10 – SUPPORT TO RESIDENTS

10.1 Section 4 looks specifically at the Covid-19 grants the Authority has received and provides a snapshot of the position as at 30 November 2021. As the Authority transitions from recovery to building a better North Tyneside, this section will look in more detail at the support the Authority has been able to offer to its residents, how it has utilised the funding provided by Government and how it has also put forward funding of its own to keep the most vulnerable in the Borough safe and supported during the pandemic.

10.2 From the start of the pandemic, the Government has provided the Authority with £8.483m of Covid-19 grants aimed at supporting Residents, a further £4.465m of grant funding has been supplied to the Authority to support Residents during the recovery from Covid-19 during 2021/22. Cabinet created the Poverty Intervention Fund in 2020/21, allocating £1.000m to support its most vulnerable Residents. In total £13.948m has been earmarked to supporting Residents. Table 44 breaks down this funding in more detail.

Table 44: Funding to Support Residents

Name of Grant / Source	Amount Awarded £m	Expenditure (Inception to Date) £m	Amount Committed £m	Amount Available £m
Covid-19 Grants				
Test & Trace Grant	(1.140)	0.883	0.257	0.000
Test & Trace Support Payments	(2.178)	1.235	0.943	0.000
Hardship Grant 2020/21	(2.024)	1.734	0.290	0.000
Emergency Assistance Grant	(0.256)	0.207	0.049	0.000
Practical Support Framework	(0.354)	0.039	0.315	0.000
Clinically Extremely Vulnerable	(0.705)	0.284	0.421	0.000
Winter Grant	(0.845)	0.845	0.000	0.000
Rapid Testing in the Community	(0.225)	0.225	0.000	0.000
Local Support Grant	(0.756)	0.982	(0.226)	0.000

Name of Grant / Source	Amount Awarded £m	Expenditure (Inception to Date) £m	Amount Committed £m	Amount Available £m
Other Government Funding				
Hardship Fund 2021/22	(2.066)	1.918	0.148	0.000
Holiday Activities & Food Programme	(0.789)	0.616	0.173	0.000
Household Support Grant	(1.610)	0.328	1.282	0.000
Authority Support				
Poverty Intervention Fund	(1.000)	0.282	0.718	0.000
Total	(13.948)	9.578	4.370	0.000

10.3 The £9.578m has been utilised in a number of ways to ensure the residents of the Borough stayed safe. The key highlights of the activity undertaken during the height of the pandemic are summarised below:

- £0.845m of the Covid-19 Winter Grant was used to cover costs of food and warmth for vulnerable residents including funding food vouchers, replacement household goods, clothing, food, hot meals and utility bills;
- 1,242 residents impacted financially by the need to isolate were supported through the Test & Trace Support grant;
- A Local Support System was developed which redeployed 85 employees and made over 19,000 welfare calls to our vulnerable residents who had to shield. Such innovations helped North Tyneside Council to be hailed as ‘best practice’ by the then Ministry for Housing, Community and Local Government;
- Over 28,000 copies of a series of magazines entitled ‘Navigating or Living Well’ were delivered to residents on the shielding list;
- Our residents without a permanent home were provided with emergency bed and breakfast accommodation to ensure they were safe and had access to essential hygiene supplies;
- 87 schools were provided with a hybrid school meal offer for vulnerable students or students of critical workers to ensure all pupils were offered a meal who needed one;
- Customer Services established a dedicated Covid-19 line to support residents who were required to shield or self-isolate;
- Volunteers from the customer services team supported the voluntary sector in preparing 300 Christmas food parcels for those who were shielding;
- System developed to enable residents to pre-pay for their shopping and £0.081m of payments were processed enabling vulnerable residents to stay safe and self-isolate; and,
- Administered a meal voucher scheme to provide vouchers during the school holidays for those children entitled to free school meals. 7,021 vouchers were

issued by the summer term 2021, providing support to those families in greatest need.

10.4 We know that we must continue to live alongside the virus. The successful completion of the recovery programme signalled a response to the Authority's emergency response and a return to a business-as-usual state, with the focus on building a better North Tyneside, creating the conditions for a Borough that continues to thrive. As part of that and a refreshed Our North Tyneside Plan the Authority will continue to support its Residents through the allocation of the remaining funding outlined in the above table. Some of the key projects are:

- As restrictions started to lift focus moved to how best to help Clinically Extremely Vulnerable residents to reintegrate; many had not left their homes and doing so caused extreme anxiety. The Authority used the CEV funding to increase capacity within the Good Neighbours project to support people with a buddy service, supporting with going shopping, going for a walk and helping residents leave their home and navigate new ways of life i.e. with shopping (wearing masks / one way systems etc);
- Funding was given to Age UK for a project using people to visit Older People who had become frailer and needed help to rebuild muscle tone and confidence before they felt able to leave the house;
- Supported LD:NE (Learning Disability North East) who worked to support residents to attend activities – resulting in 715 activities being accessed by people with a Learning Disability;
- Ran training for staff and volunteers on loss and bereavement, due to the success of this the Authority will be running further sessions over the coming months;
- Funding provided to Citizens Advice Bureau to increase support for debt work;
- Additional funding provided to the Foodbank to recognise an increase in demand for their services;
- Run the Spirit of North Tyneside awards to celebrate the contribution made by our residents to improving the lives of others and the environment;
- Planning a grant fund of £400,000 for VCSE organisations that will be a collaboration between NTC and North Tyneside CCG and administered by VODA. The funding will be aimed at delivering initiatives aimed at people affected by the pandemic and health inequalities.
- Developing a Covid Exhibition and memorial to covid centred on our waggon ways.
- Through the Household Support Grant Cabinet has committed to continue to support free school meals during the school holidays and will support the Bread-and-Butter programme; a project aiming to provide a link between food banks and supermarkets, allowing residents to purchase food at reduced costs;
- A range of other projects are being developed using the Household Support Grant which include;
 - Support for direct help to residents through the Welfare Provision Team as demand grows from residents struggling due to reduction in income or losses through Universal Credit and those struggling with rising fuel costs as we enter the winter period;

- Support for Care Leavers via a one-off grant to help with food or fuel costs. Often these are young people who can struggle to manage costs of independent living;
- Continued support to the Community and Voluntary Sector, who have played a vital role so far in supporting residents and helping the Authority deliver assistance via support for food, fuel and essential items;
- Support for housing costs for those that fall out of main support available via Housing Benefit, Universal Credit or Discretionary housing payments with grant could help;
- Support for clothing and school uniforms; and
- Support to reduce fuel poverty via grants to help repair or replace boilers where needed and also help clear fuel arrears' or help with winter fuel costs.

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	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
General Fund						
BS026 Asset Planned Maintenance						
Council Contribution	1,770	1,500	1,500	1,500	1,500	7,770
Section 106	9	0	0	0	0	9
Capital Receipts	32	0	0	0	0	32
Contribution from Reserves (Insurance)	244	0	0	0	0	244
BS026 Asset Planned Maintenance Total	2,055	1,500	1,500	1,500	1,500	8,055
BS029 Wallsend Customer First Centre						
Council Contribution	397	0	0	0	0	397
North of Tyne Combined Authority	250	0	0	0	0	250
BS029 Wallsend Customer First Centre Total	647	0	0	0	0	647
BS030 Public Sector Decarbonisation Scheme						
Council Contribution	450	0	0	0	0	450
Low Carbon Skills Grant	3,289	0	0	0	0	3,289
BS030 Public Sector Decarbonisation Scheme Total	3,739	0	0	0	0	3,739
CO079 Playsites						
Section 106	82	0	0	0	0	82
CO079 Playsites Total	82	0	0	0	0	82
CO080 Burradon Recreation Ground						
Section 106	107	0	0	0	0	107
CO080 Burradon Recreation Ground Total	107	0	0	0	0	107
CO081 Gosforth Nature Reserve Grey Squirrel Control and Enhancements						
Section 106	65	0	0	0	0	65
CO081 Gosforth Nature Reserve Grey Squirrel Control and Enhancement	65	0	0	0	0	65
CO082 Sport and Leisure Facility Improvements						
Contribution from Reserves (Leisure)	18	0	0	0	0	18
CO082 Sport and Leisure Facility Improvements Total	18	0	0	0	0	18
CO083 Whitley Bay Crematoria						
Council Contribution	1,379	0	0	0	0	1,379
CO083 Whitley Bay Crematoria Total	1,379	0	0	0	0	1,379
CO085 Northumberland Park Labyrinth						
Section 106	19	0	0	0	0	19
Contribution from Friends of Northumberland Park	25	0	0	0	0	25
Revenue Contribution (05582)	2	0	0	0	0	2
CO085 Northumberland Park Labyrinth Total	46	0	0	0	0	46
CO086 North West Library Facilities Improvements						
Section 106	0	129	0	0	0	129
CO086 North West Library Facilities Improvements Total	0	129	0	0	0	129
Coxxx Contours Gyms Improvements						
Section 106	9	75	0	0	0	84
Revenue Contribution (Leisure Reserve)	0	93	0	0	0	93
Coxxx Contours Gyms Improvements Total	9	168	0	0	0	177
DV058 Swan Hunters Redevelopment						
Council Contribution	13	0	0	0	0	13
DV058 Swan Hunters Redevelopment Total	13	0	0	0	0	13
DV064 Council Property Investment						
Council Contribution	735	300	0	0	0	1,035
North of Tyne Combined Authority - Brownfield Housing Fund	1,300	0	0	0	0	1,300
DV064 Council Property Investment Total	2,035	300	0	0	0	2,335
DV066 Investment in North Tyneside Trading Co						
Council Contribution	1,959	0	0	0	0	1,959
Section 106	3,413	0	0	0	0	3,413
DV066 Investment in North Tyneside Trading Co Total	5,372	0	0	0	0	5,372
DV067 Northern Promenade						

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
Ger DV06 Council Contribution	150	0	0	0	0	150
Capital Receipts	223	0	0	0	0	223
Revenue Contribution (08252)	577	0	0	0	0	577
DV067 Northern Promenade Total	950	0	0	0	0	950
DV068 Southern Promenade						
Environment Agency Grant	193	0	0	0	0	193
DV068 Southern Promenade Total	193	0	0	0	0	193
DV071 Section 106 Contributions to Set Up Health Facilities						
Section 106	228	36	0	0	0	264
DV071 Section 106 Contributions to Set Up Health Facilities Total	228	36	0	0	0	264
DV073 Ambition for North Tyneside						
Council Contribution	0	254	1,225	2,000	0	3,479
Capital Receipts	63	254	0	0	0	317
Historic England - Heritage Action Zone	0	0	0	0	0	0
Revenue Contribution (08252)	0	746	500	0	0	1,246
DV073 Ambition for North Tyneside Total	63	1,254	1,725	2,000	0	5,042
DV074 North Shields Heritage Action Zone (Ambition)						
Council Contribution	705	116	87	0	0	908
Historic England - Heritage Action Zone	725	115	86	0	0	926
DV074 North Shields Heritage Action Zone (Ambition) Total	1,430	231	173	0	0	1,834
DV075 Town & Neighbourhood Centres (Ambition)						
ERDF	34	0	0	0	0	34
DV075 Town & Neighbourhood Centres (Ambition) Total	34	0	0	0	0	34
DV076 Getting Building Fund (North Shields Public Realm)						
NELEP - Getting Building Fund	3,386	0	0	0	0	3,386
DV076 Getting Building Fund (North Shields Public Realm) Total	3,386	0	0	0	0	3,386
DV077 Tyne Brand Development Site						
North of Tyne Combined Authority - Brownfield Housing Fund	25	1,475	2,650	190	0	4,340
DV077 Tyne Brand Development Site Total	25	1,475	2,650	190	0	4,340
DV078 Bedford Street / Saville Street						
Council Contribution	200	0	0	0	0	200
DV078 Bedford Street / Saville Street Total	200	0	0	0	0	200
DV079 Howard Street Cultural Quarter						
Council Contribution	200	0	0	0	0	200
Historic England - Heritage Action Zone	540	0	0	0	0	540
DV079 Howard Street Cultural Quarter Total	740	0	0	0	0	740
ED075 Devolved Formula Capital						
Education Funding Agency (Devolved)	1,306	1,079	579	579	579	4,122
ED075 Devolved Formula Capital Total	1,306	1,079	579	579	579	4,122
ED120 Basic Need						
Education Funding Agency (Basic Need)	239	2,014	113	113	113	2,592
ED120 Basic Need Total	239	2,014	113	113	113	2,592
ED132 School Capital Allocation						
Education Funding Agency (SCA)	4,867	4,334	3,534	3,534	3,534	19,803
ED132 School Capital Allocation Total	4,867	4,334	3,534	3,534	3,534	19,803
ED189 School Nursery Capital Fund						
Education Funding Agency (Devolved)	25	0	0	0	0	25
Education Funding Agency (SNCF)	77	0	0	0	0	77
ED189 School Nursery Capital Fund Total	102	0	0	0	0	102
ED190 High Needs Provision Capital Allocation						
Education Funding Agency (High Needs)	663	0	0	0	0	663
ED190 High Needs Provision Capital Allocation Total	663	0	0	0	0	663
EV034 Local Transport Plan						
Dept for Transport LTP ITA	958	958	958	958	958	4,790
Dept for Transport LTP Maint	1,951	1,947	2,000	2,000	2,000	9,898
Section 106	340	0	0	0	0	340

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
Gen EV03 Public Transport Funding	28	28	28	28	28	140
EV034 Local Transport Plan Total	3,277	2,933	2,986	2,986	2,986	15,168
EV055 Surface Water Improvements						
Environment Agency Grant	421	0	0	0	0	421
NWL Contribution	40	0	0	0	0	40
EV055 Surface Water Improvements Total	461	0	0	0	0	461
EV056 Additional Highways Maintenance						
Council Contribution	195	2,000	2,000	2,000	2,000	8,195
Dept for Transport - Pothole Challenge Fund	1,851	0	0	0	0	1,851
Dft Pothole Funding 21/22	1,000	0	0	0	0	1,000
EV056 Additional Highways Maintenance Total	3,046	2,000	2,000	2,000	2,000	11,046
EV069 Vehicle Replacement						
Council Contribution	1,602	762	1,248	1,676	1,123	6,411
EV069 Vehicle Replacement Total	1,602	762	1,248	1,676	1,123	6,411
EV076 Operational Depot Accommodation Review						
Council Contribution	339	0	0	0	0	339
ERDF	1,572	200	0	0	0	1,772
EV076 Operational Depot Accommodation Review Total	1,911	200	0	0	0	2,111
EV083 Street Lighting LED						
Council Contribution	300	2,792	1,386	0	0	4,478
EV083 Street Lighting LED Total	300	2,792	1,386	0	0	4,478
EV084 A189 Improvements Haddricks Mill to West Moor						
DFT National Productivity Fund	245	0	0	0	0	245
Section 278	0	0	0	0	0	0
EV084 A189 Improvements Haddricks Mill to West Moor Total	245	0	0	0	0	245
EV091 Other Initiatives Climate Change						
Council Contribution	27	0	0	0	0	27
EV091 Other Initiatives Climate Change Total	27	0	0	0	0	27
EV094 North Shields Transport Hub						
Council Contribution	803	250	1,000	0	0	2,053
Capital Receipts	447	0	0	0	0	447
Transforming Cities Fund	3,345	0	0	0	0	3,345
EV094 North Shields Transport Hub Total	4,595	250	1,000	0	0	5,845
EV095 Emergency Active Travel Tranche 1 & 2						
Dept for Transport Covid19 Emergency Travel Fund Tranche2	1,400	0	0	0	0	1,400
EV095 Emergency Active Travel Tranche 1 & 2 Total	1,400	0	0	0	0	1,400
EV096 Tanners Bank						
Dept for Transport LTP Maint	50	53	0	0	0	103
Dept for Transport - Highway Maintenance Challenge Fund	333	547	0	0	0	880
EV096 Tanners Bank Total	383	600	0	0	0	983
EV097 Weetslade & Westmoor Roundabouts, Great Lime Road (S106 Bellway Homes)						
Section 106	1,050	3,191	0	0	0	4,241
EV097 Weetslade & Westmoor Roundabouts, Great Lime Road (S106 Be	1,050	3,191	0	0	0	4,241
GEN03 Contingencies						
Council Contribution	1,992	2,500	2,000	2,000	500	8,992
GEN03 Contingencies Total	1,992	2,500	2,000	2,000	500	8,992
GEN12 Local Infrastructure						
Council Contribution	110	100	100	100	100	510
GEN12 Local Infrastructure Total	110	100	100	100	100	510
HS004 Disabled Facilities Grant						
Better Care Fund	1,400	2,580	0	0	0	3,980
HS004 Disabled Facilities Grant Total	1,400	2,580	0	0	0	3,980
HS051 Private Sector Empty Homes						
Council Contribution	141	693	0	0	0	834
Homes & Communities Grant	164	46	0	0	0	210
HS051 Private Sector Empty Homes Total	305	739	0	0	0	1,044

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
General Fund						
HS053 Green Homes Local Authority Delivery						
Green Homes Grant (LAD1b) - Dept for BEIS	2,162	0	0	0	0	2,162
Green Homes Grant (LAD2) - Dept for BEIS	1,154	0	0	0	0	1,154
Green Homes Grant (LAD3) - Dept for BEIS	0	3,700	0	0	0	3,700
HS053 Green Homes Local Authority Delivery Total	3,316	3,700	0	0	0	7,016
IT020 ICT Strategy						
Council Contribution	1,436	1,000	1,000	1,000	1,000	5,436
Revenue Contribution (COVID)	22	0	0	0	0	22
IT020 ICT Strategy Total	1,458	1,000	1,000	1,000	1,000	5,458
General Fund Total	56,871	35,867	21,994	17,678	13,435	145,845
HRA						
HS015 Refurbishment / Decent Homes Improvements						
See HRA Financing	26,114	21,104	21,248	21,745	22,877	113,088
HS015 Refurbishment / Decent Homes Improvements Total	26,114	21,104	21,248	21,745	22,877	113,088
HS017 Disabled Adaptations						
See HRA Financing	1,314	1,072	1,083	1,094	1,105	5,668
HS017 Disabled Adaptations Total	1,314	1,072	1,083	1,094	1,105	5,668
HS039 ICT Infrastructure Works						
See HRA Financing	273	608	1,109	360	112	2,462
HS039 ICT Infrastructure Works Total	273	608	1,109	360	112	2,462
HS044 HRA New Build						
See HRA Financing	2,956	4,580	3,960	6,750	7,330	25,576
HS044 HRA New Build Total	2,956	4,580	3,960	6,750	7,330	25,576
HRA Total	30,657	27,364	27,400	29,949	31,424	146,794
Total £000	87,528	63,231	49,394	47,627	44,859	292,639

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
General Fund						
Council Contribution	14,903	12,267	11,546	10,276	6,223	55,215
Council Contribution - Capital Receipts	765	254	0	0	0	1,019
Grants & Contributions	40,340	22,507	9,948	7,402	7,212	87,409
Revenue Contribution	601	839	500	0	0	1,940
Contribution from Reserves	262	0	0	0	0	262
General Fund Total	56,871	35,867	21,994	17,678	13,435	145,845
HRA Financing						
HRA Capital Receipts	1,860	2,073	2,871	2,689	2,984	12,477
HRA Revenue Contribution	10,759	9,831	9,485	11,932	12,760	54,767
HRA MRR	16,786	15,460	15,044	15,328	15,680	78,298
HRA Grants & Contributions	1,252	0	0	0	0	1,252
HRA Financing Total	30,657	27,364	27,400	29,949	31,424	146,794
Total£000	87,528	63,231	49,394	47,627	44,859	292,639

North Tyneside Council

Report to Cabinet

Date: 24 January 2022

Title: Calculation of the 2022/23 Council Tax Base for North Tyneside Council

Portfolios: Finance & Resources	Cabinet Member: Councillor Martin Rankin
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Report from: Finance

Responsible Officer: Janice Gillespie, Director of Resources (Tel: 643 5701)
(Chief Finance Officer)

Wards affected: All

1.1 Executive Summary:

The Council Tax Base is an annual statutory calculation, used to determine the level of Council Tax to be paid for individual properties in the Borough. The Tax Base represents the number of properties that will be subject to Council Tax and which are expressed in terms of their Band D equivalents after allowing for the effect of discounts, exemptions and reliefs.

The agreed Tax Base for North Tyneside Council for 2022/23 will be used in the 2022/23 Budget and Council Tax calculation. The Tax Base is also used as the basis for the major precepting authorities (Police and Crime Commissioner for Northumbria and the Tyne and Wear Fire and Rescue Authority) to determine their precept requirements.

The 2022/23 Council Tax Base calculation and recommendations below are based on one change to the Council Tax Support Scheme, which increases the maximum backdating rule for working age claimants, from the current 4 weeks to 26 weeks, as proposed in the 2022-2026 Financial Planning and Budget Process – Cabinet’s Initial Budget Proposals, which were approved by Cabinet on 29 November 2021. This means Council Tax Support for working age claimants is still calculated on

85.0% of Council Tax liability. Pensionable age claimants still receive Council Tax Support based on 100% of their Council Tax liability.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) approves this report on the calculation of North Tyneside's Council Tax Base for 2022/23 and,
- (2) agrees that the assumed Council Tax collection rate for 2022/23 is set at 98.50% and therefore the amount calculated by North Tyneside Council as its Council Tax Base for 2022/23 shall be 62,229 Band D equivalent properties, pursuant to this report and in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012.

1.3 Forward plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 22 October 2021.

1.4 Council plan and policy framework:

- 1.4.1 This Tax Base calculation is a key element of the Budget Setting process and therefore is a key strand of the Budget and Policy Framework.

1.5 Information - Explanation of the Council Tax Base Calculation

- 1.5.1 As noted earlier, the Council Tax Base is an annual statutory calculation, used to determine the level of Council Tax to be paid for individual properties.
- 1.5.2 The Welfare Reform Act 2012 abolished Council Tax Benefit from 31 March 2013 and required local authorities to create a localised Council Tax Support Scheme with effect from 1 April 2013. Therefore, as with the last nine years, for the calculation of the 2022/23 Council Tax Base, Council Tax Support takes the form of reductions.
- 1.5.3 The calculation of the 2022/23 Council Tax Base has been prepared in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012, which came into force on 30 November 2012.
- 1.5.4 The Local Government Finance Act 2012, set out changes to Council Tax legislation and provided the statutory framework under which the decisions on local discounts and second homes may be made.
- 1.5.5 The 2022/23 Council Tax Base set out within this report is based on one change to the North Tyneside Council Local Council Tax Support Scheme, subject to approval of full Council to increase the backdating rule from a maximum of 4 weeks to a maximum of 26 weeks for working age claimants.

Tax Base Calculation for 2022/23

- 1.5.6 The detailed Council Tax Base calculation for North Tyneside for 2022/23 is attached as Appendix A to this report, together with an explanation of the specific elements that form part of this calculation. Within this calculation, adjustments have been made to reflect the effect of exempt properties, disabled relief, discounts, and premiums. Specifically, these adjustments include:
- The estimated number of dwellings to be demolished during 2022/23;
 - Assumed growth from anticipated new build properties during 2022/23 based on current estimates from the Planning Department; but reflecting the current reduction in house building caused by Covid-19 and ongoing supply chain challenges;
 - The estimated number of dwellings where the liable person qualifies for a disabled reduction;
 - The estimated number of exempt dwellings during 2022/23;
 - The estimated impact of the change being proposed to the Council Tax Support scheme in 2022/23;
 - The estimated number of premiums which apply to long term empty properties.
- 1.5.7 Applying the adjustments listed in paragraph 1.5.6 has the effect of adjusting the total number of properties to a common base for each band, in terms of full year equivalents.
- 1.5.8 The Council Tax Base Regulations ensure that the Council Tax Base for an area takes into account the effect of disability reductions in respect of dwellings which fall within Band A. The Regulations introduced an additional 'alternative valuation band' to allow Band A properties to qualify for a disabled reduction. Previously, properties adapted to meet the needs of a disabled person were charged at a rate equal to the next lowest valuation band, so for example a qualifying Band D property would be charged at a Band C rate respectively, but this did not apply to Band A properties. Instead of paying the normal Band A charge (six-ninths of the Band D) a qualifying Band A property is now charged five-ninths of the Band D charge. For the purpose of the Council Tax Base calculation, it is now necessary to show Band A properties which qualify for a disabled reduction as if it were an additional valuation band. Deductions are then made for exempt dwellings and the estimated impact of the Council Tax Support scheme for 2022/23, as set out earlier within this report.
- 1.5.9 In order to arrive at the Council Tax Base calculation for 2022/23, the number of dwellings within each of the Council Tax Bands, A – H, have been converted to their Band D equivalents, using the appropriate proportions, shown in Table 1 below. The result of this calculation for 2022/23 is to produce a total number of properties prior to an allowance for non-collection and contributions in lieu of 63,126.

Table 1: Council Tax Band Proportions

Council Tax Band	Proportion of Band D
Band A Entitled to Disabled Relief Reduction	5/9 (55.6%)
Band A	6/9 (66.7%)
Band B	7/9 (77.8%)
Band C	8/9 (88.9%)
Band D	9/9 (100.0%)
Band E	11/9 (122.2%)
Band F	13/9 (144.4%)
Band G	15/9 (166.7%)
Band H	18/9 (200.0%)

Assumed Council Tax Collection Rate

- 1.5.10 The next stage of the Council Tax Base calculation involves making a deduction for the non-collection of Council Tax. This non-collection element of the calculation is made in respect of the amounts that are legally due, but which, for varying reasons, may not be collected. The assumed Council Tax collection rates for North Tyneside have improved significantly since 1993/94, when the assumed collection rate was 95%. The assumed North Tyneside Council Tax collection rates for each year from when Council Tax was introduced in 1993/94 are illustrated in Table 2 below:

Table 2: Assumed North Tyneside Council Tax collection rates Since 1993/94

Year	Assumed North Tyneside Council Tax collection rate
1993/94	95.00%
1994/95	96.00%
1995/96	96.50%
1996/97	96.625%
1997/98	96.75%
1998/99	97.00%
1999/00	98.00%
2000/01	98.125%
2001/02	98.25%
2002/03	98.60%
2003/04	98.75%
2004/05	98.875%
2005/06 – 2007/08	99.00%
2008/09 – 2010/11	99.10%
2011/12 – 2012/13	99.20%
2013/14 – 2020/21	98.50%
2021/22	98%

- 1.5.11 A fundamental issue for the Council Tax Base calculation is the assumed percentage Council Tax collection rate to apply. As can be seen in Table 2 above, the Authority's performance on Council Tax collection was improving for many years, reaching a peak of 99.20% in setting the Council Tax Base for 2012/13. However, since 2013/14, a lower collection rate of 98.50% was proposed and agreed. The lower rate of 98.50% was set to reflect the estimated impact of the Council Tax Support Scheme, the estimated impact of other Welfare Reform changes and changes to Exemptions and Discounts applied from 2013/14.
- 1.5.12 Council Tax in year collection reduced in 2020/21 and 2021/22 due to the impacts of Covid-19 which has seen a reduction in income for some of our residents. The Authority has seen an increase in residents of working age claiming Local Council Tax Support in the last two financial years but there are now signs that the numbers of claimants are reducing. As at the end of November 2021, the in-year collection for 2021/22 is 0.50% lower than at the same point in 2019/20. However, it is 0.10% ahead of what it was in 2020/21 at the same point. This is because the Authority paused recovery of Council Tax debt in 2020/21 until later in that financial year to support residents who were having difficulty in paying. The collection rate at this point is only an approximate indicator of the assumed Council Tax collection performance, given the significant time lag effect between in year and ultimate Council Tax collection performance.
- 1.5.13 Having considered various issues in relation to the collection rate for 2022/23, namely:

- 1) Current Council Tax collection rates;
- 2) The estimated longer-term financial impact of Covid-19;
- 3) The estimated impact of the Council Tax Support Scheme;
- 4) The impact of previous changes to Exemptions and Discounts and Empty Property Premiums; and
- 5) Change to Council Tax rate in 2021/22.

It is proposed that an assumed Council Tax collection rate of 98.50% is set as part of the 2022/23 Council Tax Base calculation. This is an increase against the assumed collection rate for 2021/22 which was reduced to take account of the difficulty in collection due to job losses, furlough and the general economic climate caused by Covid-19. This year collection has improved against 2021/22 at this point, recovery of Council Tax debt is in place and the Council Tax Support claims are reducing. It is also the case that since 2020/21, working age Council Tax Support claimants have been further assisted with up to £150.00 additional support against their Council Tax through government grants. When this is removed from 2022/23 it may have some impact on in year collection. Despite this it is felt that a return to the assumed collection rate of prior to 2021/22 of 98.50% is achievable long term.

- 1.5.14 The final stage of the Council Tax Base calculation involves adding an estimated amount in respect of contributions in lieu of Council Tax to be made to the Authority, which is expressed in terms of the number of Band D equivalent properties. For 2022/23 this figure for North Tyneside Council which relates to Ministry of Defence properties is 50 Band D equivalent properties.

Resulting Council Tax Base Calculation for 2022/23

- 1.5.15 The 2022/23 Council Tax Base for the whole of North Tyneside after the allowance for non-collection and payments in lieu is 62,229 Band D equivalent properties. This equates to an increase of 1,288 Band D equivalent properties compared to the 2021/22 figure, this is down to a reduction in Council Tax Support claims, and the increase in the assumed long-term collection rate.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet:

- Sets the 2022/23 Council Tax Base for North Tyneside Council using an assumed Council Tax collection rate of 98.50%; and
- Agrees the change to the Council Tax Support Scheme.

Option 2

Cabinet does not agree the proposed Council Tax Base calculation and asks officers to undertake further work on the proposal.

Option 1

- 1.6.1 Whilst the annual Council Tax Base calculation is a statutory calculation, there is always discretion to amend the assumed Council Tax collection rate each year, based on experience and actual / anticipated collection rates. Changes to Exemptions and Discounts and the Local Council Tax Support Scheme can also be made. Changes to Exemptions, Discounts and the Local Council Tax Support Scheme are matters reserved to full Council. As noted earlier in this report the Local Council Tax Support Scheme for 2022/23 will remain at the same levels as set in 2021/22 with only a small change to the backdating rule for working claims.

Option 2

- 1.6.2 The only available option for Cabinet, following the decision to agree to the change to the backdating rule for working age but leaving the level of Local Council Tax Support at the same rate as 2021/22, is to amend the assumed Council Tax collection rate. As noted earlier within this report, the current collection rate of 98.00% is proposed to increase to 98.50%, which is the rate that was in place prior to 2021/22.

An increase in the collection rate increases the Council Tax Base and a reduction in the collection rate reduces the Council Tax Base. The impact of different Council Tax collection rates is shown in Table 3 below. There are no increases shown beyond 98.5% as this is not felt viable in the current economic situation.

Table 3: Illustrative Example - Impact of Changing the Council Tax collection rate

Council Tax collection rate	Revised Council Tax Base for 2022/23
98.00%	61,913 (current collection rate in 2021/22)
98.10%	61,976
98.20%	62,039
98.30%	62,103
98.40%	62,166
98.50%	62,229 (proposed collection rate for 2022/23)

1.7 Reasons for recommended option:

- 1.7.1 Option 1 is recommended for the following reasons:

Council Tax collection rate

The proposed 98.50% assumed Council Tax collection rate, representing an increase of 0.5% on the 2021/22 assumed collection rate is felt to be achievable for the reasons set out in paragraph 1.5.13 of this report.

The risk of setting a Council Tax collection rate too high is that this can result in a deficit position for the Council Tax element of the Collection Fund, which in turn will have to be funded by the Authority's General Fund.

This collection rate is reviewed as part of the annual Council Tax Base calculation, and the 98.50% collection rate will be reviewed in determining the Council Tax Base for 2023/24.

1.8 Appendices:

Appendix A: Detailed Council Tax Base calculation for North Tyneside Council for 2022/23.

1.9 Contact officers:

David Dunford, Senior Business Partner, Finance Service.
Tel (0191) 643 7027

Tracy Hunter, Client Manager Revenues and Benefits, Finance Service.
Tel (0191) 643 7228

1.10 Background information:

There are no background papers to this report.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

This report details the 2022/23 Council Tax Base calculation, which has been undertaken in compliance with the Local Government Finance Act 1992, the Localism Act 2011, the Local Government Finance Act 2012, and the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012. This annual calculation is a key component of the Council Tax and Budget Setting Process. The Council Tax Base is used as a denominator within the annual Council Tax and Budget calculation to determine the exact level of Council Tax to be charged for each valuation band for a given year. The charge for each Council Tax Band (A-H) for 2022/23 is calculated by dividing the amount of Council Tax income required by the agreed 2022/23 Council Tax Base for North Tyneside. It is also used as the basis for the major precepting authorities (Police and Crime Commissioner for Northumbria and the Tyne and Wear Fire and Rescue Authority) to determine their precept requirements.

As noted previously, the change to the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 produced a fundamental change to the Council Tax Base calculation. As with 2021/22, for the purposes of the 2022/23 Council Tax Base, Council Tax Support takes the form of reductions.

The change of increasing the maximum backdating rule for working age claimants, from the current 4 weeks to 26 weeks at this stage is projected to be in the region of £0.005m and is included within the 'impact of Council Tax Support scheme' line in Appendix A.

These regulations result in the proposed Council Tax Base calculation for 2022/23 of 62,229 representing an increase of 1,288 Band D equivalents compared with 2021/22. The items noted in paragraph 1.5.13 of this report have all been considered in determining the proposed assumed Council Tax collection rate for 2021/22 of 98.50%. The 2022/23 Council Tax Base figure included within this report will be built into the 2022/23 final Council Tax Requirement and Budget proposals.

2.2 Legal

Under the Local Government Finance Act 1992 the Authority is required to determine the Council Tax Base and to notify this figure to the major precepting authorities, namely, the Police and Crime Commissioner for Northumbria and the Tyne and Wear Fire and Rescue Authority during the period from 1 December to 31 January. Once the Tax Base for 2022/23 has been set, it cannot be altered after 31 January 2022.

The determination of the Council Tax Base is the responsibility of Cabinet in accordance with Section 67(2A) (za) of the Local Government Finance Act 1992.

2.3 Consultation/community engagement

Consultation on this report has taken place with the Cabinet Member for Finance and Resources, the Senior Leadership Team, and through budget consultation with the public with regards to the change proposed to Council Tax Support for working age claimants.

2.4 Human rights

The proposals within this report do not themselves have direct implications in respect of Human Rights.

2.5 Equalities and diversity

The proposals within this report do not themselves have direct implications in respect of equalities and diversity.

2.6 Risk management

Appropriate risks have been considered in determining the proposed Council Tax collection rate, as noted within the report, which forms part of the overall Council Tax Base calculation for 2022/23.

2.7 Crime and disorder

The proposals within this report do not themselves have direct implications for crime and disorder.

2.8 Environment and sustainability

There are no environmental and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Chief Executive X
- Director of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X

NORTH TYNESIDE COUNCIL

COUNCIL TAX BASE CALCULATION - 2022/2023

Row		BAND A Entitled To Disabled Relief Reduction	BAND A Value Range up to £40,000 (See Note 1)	BAND B Value Range £40,001 to £52,000	BAND C Value Range £52,001 to £68,000	BAND D Value Range £68,001 to £88,000	BAND E Value Range £88,001 to £120,000	BAND F Value Range £120,001 to £160,000	BAND G Value Range £160,001 to £320,000	BAND H Value Range Over £320,000	TOTAL
1	Properties as per List 30/11/21	0	50,415	15,859	19,672	8,225	4,290	1,447	367	38	100,313
2	Demolished Dwellings	0	-1	0	0	0	0	0	0	0	-1
3	Assumed Growth on New Build Properties	0	0	0	0	250	0	0	0	0	250
4	Disabled Relief	166	-87	18	-46	-25	-10	-4	9	-21	0
5	Exempt Dwellings or 100% discount.	0	-925	-280	-336	-86	-33	-14	-3	-2	-1,679
6	Impact of Council Tax Support Scheme	-52	-9,821	-1,152	-625	-120	-37	-6	-2	0	-11,815
		114	39,581	14,445	18,665	8,244	4,210	1,423	371	15	87,068
7	Less: Discounts at 25%	-16	-6,442	-1,560	-1,361	-421	-166	-53	-27	-2	-10,048
8	Add in Council Tax Premium Charge 100%	0	140	20	27	10	3	3	1	0	204
9	Add in Council Tax Premium Charge 200%	0	74	10	6	2	4	0	4	2	102
9a	Add in Council Tax Premium Charge 300%	0	66	9	3	3					81
		98	33,353	12,915	17,337	7,835	4,051	1,373	349	15	77,407
10	Proportion of Band D Equivalent	5/9	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9	
11	Band D Equivalent	54	22,235	10,045	15,411	7,835	4,951	1,983	582	29	63,126
12	Total Number of 25% Discounts	60	25,743	6,229	5,422	1,676	654	201	66	4	40,055
13	Total Number of 50% Discounts	2	13	6	11	4	5	6	21	3	71

Tax Base Calculation	BAND D EQUIVALENTS	COLLECTION RATE	COUNCIL TAXBASE
Tax Base Calculation	63,126	98.50%	62,179
Add Payments in Lieu			50
2020/21 Council Tax Base			62,229

Note 1

The Property Values for each Band are based on the open market capital value of the dwelling on 1 April 1991.

Council Tax Base Calculation - Explanation

Row (1) shows the number of chargeable dwellings In the Valuation List at 30 November 2021, as compiled by the District Valuer.

Row (2) shows the estimated number of dwellings which will be demolished during the year 2022/23.

Row (3) shows the assumed growth on new build properties during 2022/23. This is based on planning records and the valuation bandings that have been attributed to new properties in the last 12 months.

Row (4) shows the number of dwellings which have been dropped into the next lower Band because of having facilities for the disabled. Properties with certain facilities for meeting the needs of a disabled person may qualify for a disabled reduction. The effect of this is a drop into the next lower Band. This row adjusts for the resulting increase in the number of properties shown in

the next lower band and the resulting decrease from the actual band. Qualifying properties in Band A, enjoy a reduction in council tax equivalent to 1/9 of a Band D charge.

Row (5) shows the estimated number of dwellings, which will be exempt during the year 2022/23. Various categories of exemption exist including: property occupied entirely by students, property occupied by persons under 18 etc. This estimate is based on figures produced from the Valuation List at 30 November 2021 and from information currently held in the council tax system.

Row (6) shows the estimated impact of the Council Tax Support Scheme on the 2022/23 Council Tax Base.

Row (7) shows the estimated number discounts equated to a full charge (i.e. four discounts @ 25% = one full charge). This is an estimate of discounts for single people and discounts for other categories such as for care workers, hospital patients, the severely mentally impaired etc.

Row (8) shows the number of empty properties that have been empty greater than 2 years which will be subject to a 100% premium.

Row (9) shows double the number of empty properties that have been empty longer than 5 years which will be subject to a 200% charge.

Row (9a) shows triple the number of empty properties that have been empty longer than 10 years or more which will be subject to a 300% charge.

Row (10) shows the appropriate multiplier for the Band in question.

Row (11) shows the number of properties within each Council Tax Band A - H which have been converted to their Band D equivalents using the appropriate multiplier shown in Row 8.

Row (12) shows the total number of 25% discounts which are referred to in Row 7.

Row (13) shows the total number of 50 % discounts which are referred to in Row 7.

North Tyneside Council Report to Cabinet Date: 24 January 2022

Title: Care Home Fees and Procurement Arrangements

Portfolio(s): Adult Social Care Finance and Resources	Cabinet Member(s): Cllr A McMullen Cllr M Rankin
Report from Service Area:	Health Education Care and Safeguarding
Responsible Officer:	Jacqui Old, Director of Children's and Adult Services (Tel: (0191) 643 7317)
Wards affected:	All

PART 1

1.1 Executive Summary:

At its meeting on 29 June 2020, Cabinet received a report on the Adult Social Care Action Plan which set out an approach to working with the social care market to secure greater market stability within a programme of work to consider service redesign and market reshaping taking account of the impacts of COVID-19 and the changing nature of demand for social care services. Work on this has been progressing with different social care sectors and with regards to care home provision.

A further report was presented to Cabinet on 22 February 2021 to finalise the procurement arrangements and to undertake a procurement exercise leading to the award of contracts to preferred bidders. Cabinet will know that this is a complicated and sensitive national issue. That situation has meant it has proven complex to work with care providers and resolve some historic issues and make progress which is acceptable to all.

This report provides an update on this and requests Cabinet to agree the weekly rate for 2019 with fee increases in April 2020 and April 2021, and for Cabinet to consider the weekly price and updates to the commercial arrangements to be included in a proposed procurement exercise.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) Agree the fee levels for older person's care homes from April 2019, together with the associated fee increases in April 2020 and April 2021, as set out in paragraph 1.5.4 of this report; and
- (2) Agree the commencement of a procurement exercise with all in borough older person's care homes in line with the requirements set out in paragraph 1.5.7 of this report.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 29 October 2021.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2021 - 2025 Our North Tyneside Plan. The plan features five themes that reflect priorities aimed at creating a North Tyneside that is thriving, family-friendly, caring, secure and green. The caring policy priorities include:

- Providing great care to all who need it, with extra support available all the way through to the end of the pandemic;
- Working with the care provision sector to improve the working conditions of care workers;
- People will be cared for, protected and supported if they become vulnerable.

1.5 Information:

1.5.1 Background

The Authority commissions a range of social care services to provide care and support for vulnerable adults. This includes, but is not limited to:

- Residential care
- Home care
- Extra care
- Day services and day opportunities
- Supported living / outreach support
- Carers' support

This includes a range of client groups over the age of 18, including

- Older people, general physical needs, and mental health needs, i.e., dementia
- Learning disability
- Mental health – working age adults
- Physical disability – working age adults
- Autism

Access and eligibility to receive a personal budget and care / support under these arrangements comes from the Care Act 2014, and the assessment is undertaken and completed by the Adult Social care Service.

The Adult Social Care strategy is to support people to continue to live as independently as possible and to stay living in their own home for as long as possible. However, for

some people this is no longer possible and a care home placement in a Care Quality Commission registered care home is needed. This could include a placement into a care home in North Tyneside or a placement in a care home outside of North Tyneside where client choice indicates this is wanted.

This report relates to placements into care homes for older people operating in North Tyneside. For placements in care homes in other local authority areas the Authority would link into the fees that apply in that local authority area.

1.5.2 Care Act 2014 Responsibilities – the Market

Section 5 of the Care Act 2014 relates specifically to obligations of the local authorities in relation to market shaping and commissioning of adult social care services and support. Specifically, it includes:

- the principles which should underpin market-shaping and commissioning activity:
 - focusing on outcomes and wellbeing
 - promoting quality services, including through workforce development and remuneration and ensuring appropriately resourced care and support
 - supporting sustainability
 - ensuring choice
 - co-production with partners

- the steps which local authorities should take to develop and implement local approaches to market-shaping and commissioning:
 - designing strategies that meet local needs
 - engaging with providers and local communities
 - understanding the market
 - facilitating the development of the market
 - integrating their approach with local partners
 - securing supply in the market and assuring its quality through contracting

Importantly the duty includes the promotion of an efficient and effective market for adult social care as a whole and this specifically relates to people who are outside of the local authority arrangements and fund their own care. This would include ensuring there is sufficiency of provision that is sustainable and offers a diverse range of support that is of high and improving quality, offers choice and delivers better, innovative, and cost-effective outcomes for individuals.

Section 78(1) of the Care Act 2014 (“the Care Act”) provides that the Authority, in the exercise of its functions, must act under the general guidance of the Secretary of State. The following sections of the Guidance are of note:

- Para. 4.11 confirms that the Guidance describes (at a high level) the issues that local authorities should have regard to when carrying out duties to shape their local markets and commission services.
- Para. 4.16 and 4.17 encourages outcomes-based commissioning, including payments by outcomes, further highlighting the flexibility afforded to local authorities when commissioning services.
- Para 4.27 confirms that local authorities should commission services having regard to the cost-effectiveness and value for money that the services offer for public fund.
- Para. 4.31 provides that when commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed

care packages with agreed quality of care. This should support and promote the well-being of people who receive care and support and allow for the service provider to meet their statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. Local authorities should have regard to guidance on the fee levels that are necessary to provide this assurance, taking account of the local economic environment.

In addition, paragraph 10.27 of the Guidance, allows the Authority to, in determining how to meet needs, to take into reasonable consideration its own finances and budgetary position, and provides that the Authority must comply with its related public law duties (which includes ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population)

1.5.3 Care home fees

The Care Act focuses on meeting the need of individuals through the implementation of personal budgets and the personal budget to support residential care costs is linked to what was previously referred to as the "usual cost". This was in relation to fee levels for meeting the needs of people in care home provision. This is also linked to choice of accommodation and how much the Authority would pay for that provision to meet assessed and eligible need.

Importantly, the Authority must take account of the providers' actual costs in determining the cost of care provision in the local area.

The choice of accommodation guidance as set out in the wider Care Act guidance continues to give the ability for providers to charge a higher amount than the Authority will pay and in North Tyneside a number of care homes already do this and will continue to do this. This may be for a number of reasons such as size and location of the rooms within the care home, view etc, or simply because the care homes' costs are higher.

The care home can also choose to charge a separate and higher fee for self-funding clients, i.e. those people with savings currently above £23,250.

There are therefore a number of factors and considerations that the individual care home can employ and put in place to cover its costs, one element of which is the funding from the Authority. It is noted that different homes will have a different mix of funding arrangements in place, that could include:

- North Tyneside Council funded;
- Other Local Authority funded;
- NHS funded, where person has continuing health care needs;
- Local Authority funded with top up in place, and
- Self-funded.

As part of the process to determine the fees / rates payable, the Authority issued its draft pricing strategy document on 15 July 2019, and this is set out as Appendix 1. This set out a proposal for the care home fees from April 2019 and how future fee increases would be dealt with.

The draft pricing strategy was in two parts:

- The first part was the consultation to the proposals. This set out a number of consultation questions regarding the proposals in the main draft pricing strategy

document relating to the calculation of the price, how the Authority would deal with future price increases, the new contract, changes to the quality monitoring process and methodology

- The second part was the draft pricing strategy document setting out the proposals

A response was received from Care North East (North Tyneside) on behalf of its member care homes, see appendices 2, 2a and 2b. This challenged the proposal and included Care North East (North Tyneside)'s own calculation of care home costs in member care homes.

In addition to this a response was received from Four Seasons Health Care, they were not members of the Care North East (North Tyneside) group, this is set out at appendix 2c.

During the period late 2019 and into 2020, work was undertaken with Care North East (North Tyneside) but was not concluded due to dealing with COVID-19 matters. The to review the figures put forward by the Authority and those put forward by Care North East (North Tyneside) was picked up again in 2021.

Following this work, Officers considered the position and a delegated decision was taken on 6 July 2021. This decision was then communicated o care homes on 6 July 2021. Subsequently, the decision was formally challenged by Care North East (North Tyneside) by way of Judicial Review proceedings. The claim raised three grounds of challenge to this decision:

- i) It was procedurally unfair to take a Fees decision based on the Pricing Strategy before the consultation on the Pricing Strategy had been completed and the Cabinet had made a decision on the Pricing Strategy;
- ii) Use of the CareCubed model to take the Fees decision was both unfair and irrational;
- iii) The Council had failed to give adequate reasons for its decision.

A copy of the judicial review claim and a witness statement from Mr Gray in support of the claim are annexed to this report for information. See appendices 2d and 2e to this report.

As a consequence of the Judicial Review application, Officers reviewed the decision agreed that it be withdrawn, and that the matter be presented to Cabinet for consideration and determination

1.5.4 Cabinet consideration on care homes fees in North Tyneside

As explained above, on 6 July 2021, the Authority under the Officer Delegation Scheme determined a fee increase for care home provision from April 2019. This followed the review of information from Care North East (North Tyneside) and the Authority's own work on care home costs that was undertaken as part of the draft pricing strategy consultation exercise.

The Authority also put in place further increases to the April 2019 base costs in line with previously determined inflationary uplifts in April 2020 of 5% and April 2021 of 2.16% to give a new set of rates to be paid for the three-year period commencing April 2019.

The outcome of this and the associated annual fee increases are set out in appendix 3a.

This decision was one of the subjects of the Judicial Review that the Authority received and it was decided to withdraw that decision pending some further work with Care North East (North Tyneside) and a report to Cabinet on the matter.

This additional work has now been concluded and has resulted in the proposed figures set out in the table below.

These proposed figures reflect careful consideration of:

- The figures set out in Care North East (North Tyneside)'s consultation response;
- The proposed figures in the draft pricing strategy;
- The figures generated by other models, including ADASS and Laing and Buisson
- Fees being paid in other local authority areas in the North East.

The figures also reflect consideration of the costs that providers are facing in delivering care, the care home market in North Tyneside generally, and the care home fees from other local authorities in the North East Region.

The Authority has sought to arrive at proposed figures that are affordable, as well as fair and transparent. There has been extensive engagement with Care North East (North Tyneside) with a view to reaching agreement on the proposed figures.

In arriving at the proposed figures we have:

- Used a figure for staffing costs of £367.00 per week, which is the same as the figure proposed by Care North East (North Tyneside) in its consultation response
- Used a figure for non-staffing costs of £137.00 per week, which is the same as the figure proposed by Care North East (North Tyneside) in its consultation response
- Increased the differential between the fees for general and dementia care

There was a significant difference between the approach taken to the return on capital and contingency costs in the draft pricing strategy and the consultation response from Care North East (North Tyneside). Notwithstanding this and as part of the overall calculation of costs in light of the matters set out above, it is proposed that this be indicatively calculated at £84.00 per week to give an overall total blended cost (taking account different grades of home and the mix of general and dementia placements) of £588.00 per week.

The rates as set out in the table below have been agreed by Care North East (North Tyneside) on behalf of its members and are recommended for agreement.

	New Baseline for 2019/20	Plus 5% for 2020/21	Plus 2.16% for 2021/22
Residential - general			
Grade 1	£599.40	£629.37	£642.96
Grade 2	£563.38	£591.55	£604.33
Grade 3	£528.41	£554.83	£566.81
Grade 4	£499.27	£524.23	£535.56
Residential - dementia			
Grade 1	£633.57	£665.25	£679.62

Grade 2	£596.22	£626.03	£639.55
Grade 3	£559.96	£587.95	£600.65
Grade 4	£529.74	£556.23	£568.24

Note:

1. The 2019 rates are increased in each of the subsequent two years to take account of inflationary uplift (national living wage increases and consumer price index increases in April 2020 and April 2021 at 5% and 2.16% respectively).
2. The financial impact of this is estimated to be £1.700m in total across the financial years 2019/20, 2020/21 and 2021/22, as follows:
 - a. 2019/2020 cost impact of £0.505m
 - b. 2020/2021 cost impact of £0.590m
 - c. 2021/2022 cost impact of £0.605m
3. This will mean a back-payment of fees payable for each placement we have made into the care homes in each of those financial years
4. The new fee levels will feed into the baseline for fee increases from April 2022 with an initial identified cost pressure of £0.604m

Appendix 4 to this report sets out a comparison of the grade 1 costs (as at grade 1 rates in 2021/22) against the other Local Authorities in the North East region.

For both general care and dementia care the proposed rates place North Tyneside slightly above the regional average and fourth higher across the whole of the region.

1.5.5 The care home market in North Tyneside

In North Tyneside there are 29 care homes operated by 19 different organisations. The organisations range from large national PLC organisations to much smaller single provider owned care homes. There is therefore a varied range of types of providers operating in the market, each with their own position in relation to the operation of their home(s) in North Tyneside and regionally or nationally.

Over the last 18 months the Authority has witnessed, as is the case in other local authority areas, big challenges facing care homes as a result of the Covid pandemic. For the purpose of this report the main challenge has been around reduced occupancy levels and at the same time a range of different costs being incurred.

However, the Authority is starting to see occupancy levels increase, albeit slowly towards pre-COVID levels. During the last 18 months however, the Authority has had a relatively static number of placements and funded bed nights across all care homes. The main reason for the reduction in occupancy has been in relation to reduced number of people in care homes that are either self-funding, funded by other local authority areas or funded by the Clinical Commissioning Group (continuing health care placements).

In that time, one care home has closed, with a reduction of 25 beds in the system, albeit at the time they only had 10 people in those beds. It is likely that this closure was COVID related (tragically a significant number of residents in this home contracted Coronavirus and subsequent died) which led to reduced occupancy as opposed to any decisions taken by the Authority in relation to placements or funding levels.

Alongside this, over the last 18 months the Authority has:

- Supported care homes with occupancy and other payments.
- Passed on grant funding from the Department of Health and Social Care – infection control, rapid testing grants.
- Supported providers to access PPE, prior to the national free portal becoming available.
- Supported providers through the Prevent and Protect Team to deal with outbreaks and wider offers of support from the Authority and colleagues in the NHS

Occupancy over the period January 2020 to date is set out in the table below:

Date	Total beds	Beds Occupied	Occupancy %
January 2020	1481	1279	86%
April 2020	1481	1330	90%
July 2020	1481	1217	82%
October 2020	1506	1243	83%
January 2021	1506	1186	79%
April 2021	1506	1196	79%
July 2021	1457	1203	83%
October 2021	1457	1275	88%

These figures suggests that there is a sustainable and vibrant market in North Tyneside, as:

- There has only been one care home closure – this was a result of low occupancy following a serious Covid-19 outbreak
- There are two other care homes that are awaiting CQC registration providing a further 100 beds, and the provider is aware of current fee levels and is still seeking to operate in North Tyneside.
- The care home provider that closed its home (see bullet point above) is now considering re-opening.
- Occupancy levels are starting to increase.
- One care home (small / single ownership) has been sold and an existing North Tyneside provider has purchased it.

1.5.6 Quality monitoring and care home grades

The Authority undertakes a quality monitoring visit and produces a report and percentage score from this. The quality monitoring covers a number of different aspects of care delivery and is intended to ensure that the result gives a balanced position on the overall quality of care delivery within the care home. The outcomes percentage score then determines which grade the care home is at, and this is then linked to payments as set out below.

Assessment Criteria and Domains		Percentage of the overall score
Quality monitoring tool and on-site assessment	Is the service safe?	70%
	Is the service effective?	
	Is the service caring?	
	Is the service responsive?	
	Is the service well led?	
Physical environment, assessment on the day by the Commissioning Officer		5%

Environment score based on GLP tool	25%
Total	100%

Grading	Scoring (%)	Number of homes in each grade
Grade 1	80 – 100%	19
Grade 2	70 – 79.99%	7
Grade 3	60 – 69.99%	2
Grade 4	Less than 60%	1

It is intended that this is a positive process for the care home and the Authority is seeking to maximise the quality of provision and therefore the numbers of care homes in grade 1.

Paragraph 1.5.7 below sets out the proposed changes to the quality monitoring and banding process that will feed into the procurement exercise and futures years' costs to care homes following a new and updated process.

1.5.7 Procurement and contracting arrangements

Whilst the Authority must seek to ensure Best Value in terms of the procurement of residential and nursing care, the structure of the existing market in the Borough, the use of a pre-agreed pricing mechanism and the choice of placements afforded by the Choice of Accommodation Direction mean that it has not been previously possible to competitively procure this service.

The current contract ended in 2015 and has been extended since then due to ongoing fee negotiations. In accordance with the Public Procurement Regulations 2015 a procurement exercise must be undertaken.

Extensive engagement is currently being undertaken to ensure providers are ready to contract with the Authority.

The Authority has developed a three-year plan (see appendix 5) to set out a review of its commercial arrangements with care home providers and has set an ambition of:

- Putting new contracts in place that meets the Authority's requirements now and during the contract term.
- Put in place a new set of fee levels with care home providers and arrangements for dealing with fee increases.
- Reviewing the quality monitoring and banding levels.
- Better understanding demand and requirement to ensure there is sufficiency of the right supply to meet that need.

During August / September 2021, detailed engagement and consultation took place with care home providers individually, with Care North East (North Tyneside) and with the CCG.

The engagement looked at:

- Dealing with fee increases.
- Quality of provision and quality improvement, review of quality monitoring methodology and grading.

- Demand and capacity to deliver.
- The contract underpinning the provision of care, contract duration.
- Procurement process.

The feedback is set out in appendix 6. In summary, the following sets out the key elements for Cabinet consideration.

- Given the current pandemic and uncertainty in relation to Adult Social Care settlements, a shorter-term contract of 12 months plus a further 12 month option to extend would be appropriate.
- The Authority proposed an increase in weighting to achieve the highest banding, an increase from 80%. During the term of the contract, we will work towards an 85% banding for grade 1. This will ensure that our vulnerable residents receive the highest quality of care. Prices will continue to be increased on an annual basis but in line with a formal mechanism within the contract.
- Providers would be keen to enter into formal contracts with the Authority.
- In relation to fee increases, it was agreed there needed to be reference to areas outside of Provider and Authority control to be included, such as links to Living Wage which have recently increased above inflation over recent years as well as other cost pressures that may come through, i.e. utility costs, insurance, infection control (once grants and access to free PPE comes to an end).

1.6 Decision options:

The following decision options are available for consideration by Cabinet

Option 1

To agree the recommendations set out in paragraph 1.2 of this report.

Option 2

To not agree the recommendations set out in paragraph 1.2 of this report and request Officers to undertake further work on care home fees and commissioning / procurement arrangements and present further recommendations back to Cabinet.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- This would enable a decision to be made on fee levels and for the procurement exercise to be commenced for new contracts / framework agreements to be put in place from April 2022.

1.8 Appendices:

Appendix 1 – North Tyneside Adult Social Care Draft Pricing Strategy Consultation Document– 15 July 2019

Appendix 2 – Response to the Consultation received from Care North East (North Tyneside)

Appendix 2a – Summary of costing methodology from Care North East (North Tyneside)

Appendix 2b – Summary costs received from Care North East (North Tyneside)

Appendix 2c – Response to the Consultation received from Four Seasons Health Care
Appendix 2d – Judicial Review claim – Statement of Facts
Appendix 2e – K Gray witness statement
Appendix 3a – Fees to be paid to care homes, published 6 July 2021
Appendix 3b – Fees to be paid to care homes, to be agreed by Cabinet
Appendix 4 – Regional comparison of care home fees
Appendix 5 – Three-year plan – care home commercial arrangements
Appendix 6 – Summary feedback from engagement on care home contracts
Appendix 7 – Equality Impact Assessment (updated December 2021)

1.9 Contact officers:

Scott Woodhouse, Strategic Commissioning Manager, Adults (0191) 643 7082
Sarah Heslop, Strategic Manager Commercial and Procurement (0191) 643 5456
Claire Emmerson, Senior Manager – Financial Planning and Strategy (0191) 643 8109

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) Department of Health and Social Care, Care Act 2014 – guidance, last updated 27 August 2021 – [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/care-and-support-statutory-guidance)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The Authority must take account of its available resources in determining the fees payable to social care providers for the delivery of a range of different services. In doing this, the Authority will take account of current budget provision, current and forecasted expenditure, and expected changes to demand requirements reflected in future commissioning intentions. Growth requirements are identified through the annual budget setting process i.e. demand growth based on increase in numbers and activity or standstill pressures such as national living wage increases, other cost pressures providers are facing.

The additional cost of the proposed additional uplift to the 2019/20 rates outlined in section 1.5.4 is estimated to be £1.700m across the financial years 2019/20, 2020/21 and 2021/22 based on actual expenditure incurred in 2019/20 and 2020/21 and on forecasted expenditure for 2021/22. The impact of the £1.700m uplift has been built into the forecasted position reported to Cabinet in the Financial Management Report to 30 November 2021, also presented on 24 January 2022.

The proposal also increases the as yet undetermined rate on which the 2022/23 increase will be based. Cabinet will be kept updated on the impact on 2022/23 through the financial governance processes in place around Budget setting and the Medium Term Financial Plan 2022-2026.

2.2 Legal

The duties and obligations on the Authority are set out in the main body of the report, and these relate specifically to the Care Act 2014 and engagement / consultation.

As detailed extensive consultation has been undertaken regarding the Pricing Strategy. The fee was therefore determined in accordance with the constitution and scheme of delegation. Subsequently, a Judicial Review Pre-Action Protocol letter was received by the Authority on 15 July 2021 on behalf of a group of affected care home providers within the borough. Notwithstanding a number of meetings with the providers, formal Judicial Review proceedings were commenced, and received by the Authority on 21 September 2021. External legal advice was sought, which confirmed that to ensure a fair and transparent process, the decision on fees should be taken by Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Key internal engagement has taken place across the Authority with input and representation from legal, finance and commissioning services.

2.3.2 External Consultation/Engagement

External engagement has been undertaken in two phases.

Firstly, on 15 July 2019, the Authority published a draft pricing strategy for care home provision and set out a number of questions as part of the engagement exercise. The intention at this stage was to receive responses, consider the detail and prepare and present a report to Cabinet in late 2019 / early 2020 and then implement new fees from April 2020. The engagement timescale was extended a number of times to enable a full response to be received from Care North East (North Tyneside) on behalf of member homes in North Tyneside. There were then delays in dealing with the queries from this and in March 2020 this work was stood down as COVID-19 hit and the focus moved elsewhere.

However, the discussions continued later during 2020 and into 2021, with a series of meetings in place and discussions about the fees payable.

Secondly, the engagement took place with care homes on the contracting and procurement arrangements for care home provision in North Tyneside. There were links in this to the outcome of the pricing strategy but equally there was a key focus on putting in place a new three-year plan (appendix 5) to develop the commercial relationship with care home providers.

In addition to the above, the Authority has engaged and consulted with North Tyneside Clinical Commissioning Group. The Authority is responsible for commissioning residential care placements and the CCG is responsible for commissioning nursing and continuing health care placements. There is a separate s75 agreement in place between the CCG and the Authority for the Authority to commission and fund nursing and continuing healthcare placements – note there are additional costs payable for nursing care and continuing healthcare, and these are set by the CCG.

2.4 Human rights

The proposals contained in this report relate to the following human rights:

- Right to liberty and security.

- Right to respect for private and family life.
- Protection from discrimination.

The contracts and specifications in place will require Providers to meet human rights duties and statutory requirements.

2.5 Equalities and diversity

The Adult Social Care contracts stipulate that Provider(s) will ensure compliance with the 2010 Equality Act and Public Sector Equality Duty and therefore will not unlawfully discriminate against employees or service users with protected characteristics.

The contract also stipulates that the Provider(s) must ensure that its workforce receives appropriate training to understand their roles and responsibilities under the Equality Act e.g., implementing Equal Opportunity requirements, and to promote equality and prevent discrimination.

This will be monitored through the quality monitoring arrangements for each of the services.

An Equality Impact Assessment of the proposed decision on fees is at Appendix 7.

2.6 Risk management

Risks have been considered and evaluated. Actions that could be taken to mitigate identified risks have been identified. During the process of contracting, risks will be discussed, evaluated and actioned as appropriate.

Risks that are specific to service delivery will be identified and included in the service specification.

Any risks associated with the process of putting new contracts in place have been mitigated through the use of the NEPO portal as the mechanism to ensure that an open and transparent procurement process is in place.

There is the additional risk that the decision taken by Cabinet will not be accepted by Care North East (North Tyneside) or individual care home providers and this may give rise to further Judicial Review challenges being made against the Authority.

2.7 Crime and disorder

There are no crime and disorder implications arising directly from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising directly from this report.

PART 3 - SIGN OFF

- Chief Executive X
- Director(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X

Pricing Strategy

For Older Person's Residential Care

2019/20

CONSULTATION DOCUMENT

Date: 15 July 2019

Authors: North Tyneside Commissioning Team, Adults



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Introduction

The Authority is proposing to review the weekly rates paid for residential and nursing home services 2019/20 for older people (and other client groups as appropriate) and wishes to consult with the care home market in North Tyneside on its proposals. Whilst the decision will ultimately be made by the Authority, the Authority seeks the views of care home providers and other interested parties, to inform its decision making process.

This document sets out how this consultation will take place and the subsequent decision making process that will follow, in order for the Authority to formally make the decision regarding any review of rates.

This Consultation should be read alongside the Proposed Pricing Strategy document dated 15 July 2019. A copy of this document is part of this Consultation.

The Proposed Pricing Strategy sets out proposals for:

- Setting a rate for residential care services for older people;
- Application of a differential rate for EMI (Elderly Mentally Infirm) / dementia care, using the residential rate as a basis for this;
- Application of a banded payment rate for different grades of residential care, following the completion of a quality monitoring visit and using the residential blended rate as a basis for this;
- Review of the quality monitoring tool and the scoring methodology;
- Determination of an hourly rate for additional 1:1 care, as determined following assessment and as detailed in individual support plans;
- Dealing with inflationary price increases over the life of the proposed new contract, including general cost increases and living wage increases;
- Formalising all of the above in a new three year contract / agreement.

As part of this Consultation, the Authority has a series of questions to be considered and responded to, these are set out below. In order for them to be considered as part of the Consultation process, all responses **MUST** be received by the deadline date of 12 August 2019 and as detailed in the ‘How to Respond’ section of this Consultation. The Authority will review all responses received as part of the decision making process.

Consultation Process



Adult Social Care has a set of engagement standards that set out how this should take place.

The aim of this Consultation is to:

- (a) inform providers in the market about what we would like to do to improve Adult Social Care services; and
- (b) detail our proposals for setting the weekly rates for 2019/20 and subsequent years.

More information on both of these proposals can be found in this Consultation document.

The Proposed Pricing Strategy proposes a new methodology for the calculation of care home fees for older people for 2019/20 and beyond. This Consultation offers local providers and other interested parties the opportunity to have their say about this and to enable the Authority to consider your views on our proposals, alongside those of others. As part of Adult Social Care’s Engagement Standards, we will give:

- Sufficient notice and opportunity to get involved
- All the information that is known and legally permissible to be shared to aid your understanding of the issue
- Advance information on what decisions have already been made and why those decisions have been made and then what parts of the issues or decisions you can still influence
- Include details of the issues raised and responses in the decision making process

The consultation process is set out as follows, this includes the timeline and the various stages to be undertaken and completed.

- Stage 1 – issue consultation document and Proposed pricing strategy document to the care home market in North Tyneside, by email and by post;
- Stage 2 – consultation will last for 28 days and will end on Monday, 12 August 2019;
- Stage 3 – analysis of responses by the Authority and clarification sought (if required);
- Stage 4 – decision making and notification of the outcome of the decision and publishing of the final version of the Pricing Strategy.
- Stage 5 – implement Pricing Strategy and update payments to care home providers, to be backdated to 1 April 2019

Decision Making Process

The Authority’s power to set care home fees is delegated under the Authority’s Constitution, to the Head of Health, Education, Care and Safeguarding. Given the important and strategic nature of this decision making process, it is proposed that the any new Pricing Strategy will be agreed by the Authority’s Cabinet.

Following this Consultation process and the consequent analysis, a report will be drafted and presented to the Authority’s Cabinet. This will seek a decision on the Pricing Strategy for older person’s residential care services.

It is planned at this stage that the report will be presented to the Cabinet meeting on 14 October 2019. From this date there is a 5 day call-in period. Following the call in period, it is proposed that the Authority will publish the decision and the formal Pricing Strategy as soon as possible.

If there are a substantial number of responses to this Consultation and / or the responses are sufficiently complex in nature, the decision report to Cabinet may need to be delayed to a later meeting, ie November 2019.

Consultation Questions

The following consultation questions have been drafted to seek your views on the Proposed Pricing Strategy for older person’s residential care services in North Tyneside. Propose

The purpose of the consultation is to:

- seek feedback on the principles the Authority has used to arrive at the Proposed Pricing Strategy; and whether, in the view of consultees, there are any additional factors that should be considered;
- understand providers’ views on the likely impact of the Proposed Pricing Strategy on the financial viability of their care home; and
- understand the views of providers and voluntary sector stakeholders on the likely impact of the proposals on residents.

There are seven consultation questions set out below. Responses to these questions **MUST** be limited to no more than one side of A4 (in font size 10) for consideration. Responses must be submitted in Word format. Please note that any part of a response over the limit of one side of A4 will not be considered. Any response not received in the correct font size, will be formatted to the correct font size before review. If you are unable to respond to this Consultation in the manner described above, please let us know as soon as possible and an alternative method will be agreed.

1. Please consider the Proposed Pricing Strategy and in particular the information used by the Authority in order to arrive at the potential rates. Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why.
2. The draft Pricing Schedule links the costs of dementia / EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate.
3. As part of the draft Pricing Schedule, the Authority proposes to review the current quality monitoring tool for care homes. It is proposed that this will include consideration of the home’s latest CQC rating and that this will be fed into the home’s overall quality score which informs the home’s overall grade in the Proposed Pricing Strategy. It is the

Authority’s view that this methodology will have a positive impact on the quality of care delivered in North Tyneside – do you agree? If not, why?

4. It is proposed that following this Consultation, the Authority will be in a position to make a decision in relation to the care costs for the year 2019/20 and also to decide upon a methodology for increasing those fees over the following three years to 2022/23.

The Proposed Pricing Strategy proposes two methods for price increases over the years detailed above. They are:

- (a) percentage increase on baseline; or
- (b) An annual re-run of the agreed funding model?

Please confirm which of the above models you believe will more accurately address the increasing costs of delivering care in North Tyneside and explain why.

5. The Authority is proposing (for new packages and placement costs) a new 1:1 hourly rate where additional support is required. The Proposed Pricing Strategy proposes what this might be in 2019/20, and how the Authority has arrived at this proposal. In your view, does this take account of the costs of providing additional 1:1 support in North Tyneside?
6. The Authority is seeking to put in place a new three year contract (joint with the Clinical Commissioning Group) from April 2019, covering the areas set out in this Proposed Pricing Strategy document. Are there any other areas you believe should be included in the new contract? If you do make suggestions, please explain your reasons for making each suggestion.
7. Are there any other areas the Authority should consider as part of the Pricing Strategy?

How to Respond

Please submit a written response to one or more of the consultation questions by:

- Email to: commissioning@northtyneside.gov.uk
- Written submission to Scott Woodhouse, Strategic Commissioning Manager Adults, People Based Commissioning Team, North Tyneside Council, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY.
- Note the response for each question is limited to no more than one side of A4 (at a font size of 10), this document or a separate response document may be used.
- If you are unable to response to this Consultation in the manner described above, please let us know as soon as possible and an alternative method will be agreed.

**Adult Social Care – Pricing Strategy for Older Person’s Residential Care – July 2019
CONSULTATION DOCUMENT**

Responses must be received by no later than 5.00pm on Monday, 12 August 2019. Responses received after this time / date may not be considered.

Please note any response received by the Authority may be used by the Authority in the completion of a decision report, which may be a public document. Respondee names / details will be anonymised.

Consultation Q1

Question: Please consider the Proposed Pricing Strategy and in particular the information used by the Authority in order to arrive at the potential rates. Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why.

Response:

Consultation Q2

Question: The draft Pricing Schedule links the costs of dementia / EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate

Response:

Consultation Q3

Question: As part of the draft Pricing Schedule, the Authority proposes to review the current quality monitoring tool for care homes. It is proposed that this will include consideration of the home’s latest CQC rating and that this will be fed into the home’s overall quality score which informs the home’s overall grade in the Proposed Pricing Strategy. It is the Authority’s view that this methodology will have a positive impact on the quality of care delivered in North Tyneside – do you agree? If not, why?

Response:

Consultation Q4

Question: It is proposed that following this Consultation, the Authority will be in a position to make a decision in relation to the care costs for the year 2019/20 and also to decide upon a methodology for increasing those fees over the following three years to 2022/23.

The Proposed Pricing Strategy proposes two methods for price increases over the years detailed above. They are:

- (a) percentage increase on baseline; or
- (b) An annual re-run of the agreed funding model?

Please confirm which of the above models you believe will more accurately address the increasing costs of delivering care in North Tyneside and explain why?

Response:

Consultation Q5

Question: The Authority is proposing (for new packages and placement costs) a new 1:1 hourly rate where additional support is required. The Proposed Pricing Strategy proposes what this might be in 2019/20, and how the Authority has arrived at this proposal. In your view, does this take account of the costs of providing additional 1:1 support in North Tyneside?

Response:

Consultation Q6

Question: The Authority is seeking to put in place a new three year contract (joint with the Clinical Commissioning Group) from April 2019, covering the areas set out in this Proposed Pricing Strategy document. Are there any other areas you believe should be included in the new contract? If you do make suggestions, please explain your reasons for making each suggestion.

Response:

Consultation Q7

Question: Are there any other areas the Authority should consider as part of the Pricing Strategy?

Response:



North Tyneside Council

North Tyneside Council
People Based Commissioning Team
Quadrant East
Silverlink North
Cobalt Business Park
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Proposed Pricing Strategy For Older Person's Residential Care 2019/20

Date: 15 July 2019

Authors: North Tyneside Commissioning Team, Adults



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Introduction

This Proposed Pricing Strategy sets out the proposed arrangements for determining the price the Authority will pay to external providers for older people’s residential care provision. It includes information and evidence from a range of sources to support the recommendations to arrive at proposed fee levels for 2019/20. The Proposed Pricing Strategy also looks at the arrangements for determining increases to the fee levels in future years.

The fee levels in this report will primarily be for older person’s services for short term and long term care, but will also be used as a baseline for nursing and continuing healthcare provision.

The Proposed Pricing Strategy sets out proposals for:

- Setting a rate for residential care services for older people;
- Application of a differential rate for EMI (Elderly Mentally Infirm) / dementia care, using the residential rate as a basis for this;
- Application of a banded payment rate for different grades of residential care, following the completion of a quality monitoring visit and using the residential blended rate as a basis for this;
- Review of the quality monitoring tool and the scoring methodology;
- Determination of an hourly rate for additional 1:1 care, as determined following assessment and as detailed in individual support plans;
- Dealing with inflationary price increases over the life of the proposed new contract, including general cost increases and living wage increases;
- Formalising all of the above in a new three year contract / agreement.

Background

The Authority is presently in discussions with Care North East – North Tyneside (CNE-NT) and other care providers in the Borough, regarding proposed residential care home fee levels for 2019/20.

Care North East – North Tyneside represents a majority of the residential and nursing care homes in North Tyneside, though it is noted it does not represent all. The Four Season’s Health Care nursing homes are not part of the CNE-NT association. CNE-NT is also part of a wider Care North East association with individual other associations operating in other Local Authority areas.

As part of the agreements on the 2017/18 and 2018/19 fee levels, the Authority stated it would want to also look at the following areas with care home providers.

- A proposed three year joint agreement between the Authority and the CCG with individual residential / nursing care homes, covering the period 2019/2022, within this having a baseline agreement around fee increases;
- The use of CQC ratings as part of the banding / payments process;

- Moving the focus of consideration from price to quality and improvement and how collectively we can improve the quality of provision across the sector in the Borough;
- CNE undertaking a cost of care exercise to identify cost indices for increases in subsequent years and used as a basis for understanding costs in North Tyneside;
- Evidence to show that national living wage increases are passed on to employees.

Statutory Obligations on the Authority

In determining fee levels for residential care provision (and for other non-residential care services) in North Tyneside, the Authority must ensure it is compliant with its statutory obligations and requirements. This is set out as follows.

Care Act 2014

The Care Act 2014 (CA 2014) details a number of obligations on the Authority, in relation to the care home sector.

Under Section 5 of the CA 2014, the Authority has a general duty to promote diversity and quality in the care and support provider market with a view to ensuring that any person in its area wishing to access services in the area:

- (a) has a variety of providers to choose from who (taken together) provide a variety of services;
- (b) has a variety of high quality services to choose from;
- (c) has sufficient information to make an informed decision about how to meet the needs in question.

In performing its duty above, the Authority must have regard to a number of matters:

- (a) including the importance of ensuring sustainability in the market (in circumstances where it is operating effectively as well as in circumstances where it is not);
- (b) the importance of fostering continuous improvement in the quality of such services and the efficiency and effectiveness with which such services are provided and of encouraging innovation in their provision;
- (c) the importance of fostering a workforce whose members are able to ensure the delivery of high quality services.

The purpose of the general duty under Section 5 is to produce a sustainable and diverse range of care and support providers to deliver better, innovative and cost effective services and support to promote the well-being of each person with a need for care and support.

This requires the Authority to:

- identify those with care and support needs
- identify what needs require prioritising
- encourage provider competition, whilst monitoring the services provided.

Care and Support Statutory Guidance

Section 78(1) of the CA 2014 provides that the Authority, in the exercise of its functions, must act under the general guidance of the Secretary of State.

The Care and Support Statutory Guidance

(<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>) (the Guidance) gives guidance on the use and application of the Care Act 2014. The following sections of the Guidance are of note:

- Para. 4.11 confirms that the Guidance describes (at a high level) the issues that local authorities should have regard to when carrying out duties to shape their local markets and commission services.
- Para. 4.16 and 4.17 encourages outcomes based commissioning, including payments by outcomes, further highlighting the flexibility afforded to local authorities when commissioning services.
- Para 4.27 confirms that local authorities should commission services having regard to the cost-effectiveness and value for money that the services offer for public funds.
- Para. 4.31 provides that when commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the well-being of people who receive care and support and allow for the service provider to meet their statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. Local authorities should have regard to guidance on the fee levels that are necessary to provide this assurance, taking account of the local economic environment.

The Guidance also offers the following tools as support for this:

- [Laing and Buisson toolkit to understand fair price for residential care](#)
- [ADASS paying for care calculator](#)

In addition, paragraph 10.27 of the Guidance, allows the Authority to, in determining how to meet needs, take into reasonable consideration its own finances and budgetary position, and must comply with its related public law duties (which includes ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population)

Adult Social Care Priorities – 2019/20

Our vision is to **work alongside people, to help keep them well and safe and to do as much for themselves as possible, for as long as possible.**

Our key approaches in delivering our vision are to:

- **Act early and swiftly, with the minimal level of intervention** to promote independence and safety, and maximise the assets of each individual with their family and their community;

- **Always focus on the quality of care and support provided** through evidence based practice and the voice of people using and providing services;
- **Use integration and collaboration** with other Council services, partners and our customers, as the default way of working.

Using the three key approaches, our key priorities for Adult Social Care for the year ahead are:

- **Improving the customer experience** – taking a step back and examining what we do from our customer's perspective; ensuring customers:
 - Feel informed
 - See timely action, and
 - Receive a clear outcome
- **Responding to rising levels of complex and comorbidity need** –collaborating to engage customers, staff, the care and support market and local partners, to respond to the challenges we face
- **Effectiveness and efficiency of assessment and service delivery** – going back to basics on the purpose of assessment and care and support, ensure the customer is at the centre of everything we do
- **Using technology to promote independence and deliver services effectively** – continuing our journey to integrate technology, where it improves the wellbeing of our customers and enhances the skills and resources of our staff.

Commissioning Intentions – 2019/20

The Authority has agreed its commissioning intentions for Adult Social Care for 2019/20 and these are set out in Appendix 1.

The key features of the commissioning intentions that have an impact on care home provision are to:

- Support people to live independently in their own home for as long as possible;
- Develop innovative solutions to support individuals and family carers to continue their caring roles;
- Develop further extra care provision across the borough with a focus on the north east of the borough and also provision of extra care for dementia;
- Work collaboratively with the CCG and with Providers to monitor the supply and demand for residential and nursing home provision across the borough, including models to support discharge from hospital.

Current Market Provision in North Tyneside / Sufficiency of Supply

Requirements of the Care Act

The Care Act 2014 places a duty on the Local Authority to ensuring there is a variety of providers operating in the local market to deliver a variety of services and that those services are of high quality and sustainable in delivery

Supply

There are currently 31 care homes operating in North Tyneside that primarily support older people, there are other care homes that operate and support people with a learning disability, physical disability or with mental health problems.

Of the 31 older people’s care homes:

- There are 1468 beds
- 17 homes delivering residential care only
- 13 homes delivering residential and / or nursing care
- 1 home delivering nursing / continuing health care only (this is excluded from the assessments undertaken within this report as the service delivered is at a higher level that would normally be commissioned). The baseline number of care homes therefore for the purpose of this pricing strategy is 30

These 30 care homes range in size and some are part of large national organisations whereas others are small local sole trader organisations. Equally, there is a mix of new build provision and converted older properties. The range of provision type is set out in the following table:

	Small, 1-25 beds	Medium, 26-50 beds	Large, 51+ beds	Totals
Local	3	3	0	5
Regional	2	7	2	11
National	0	8	5	13
Totals	5	18	7	30

Of the current 1286 people in the care homes (figures from w/c 17 June 2019):

- 483 are residential funded by NTC
- 61 are respite placements funded by NTC
- 186 are nursing funded by NTC and CCG
- 60 are continuing healthcare funded by the CCG
- 19 are NHS directly commissioned beds
- 109 are placements funded by other local authorities
- 368 are self-funded placements

The 1286 people in the care homes can also be broken down as follows:

- 558 residential
- 387 residential – dementia
- 204 nursing
- 137 nursing – dementia

Changes in Care Home Provision

There has been minimal change in the external care home market in North Tyneside over the last 12 months.

There has been one home closure in this time and this was a residential home.

The owners had two homes and decided to rationalise the occupancy from two homes into one care home, due to lower levels of occupancy. A majority of the staff team and the service users moved across to the remaining home.

There are soft intelligence reports of a small number of homes that are up for sale, the Authority is only formally aware of one of them and will work with this provider to ensure sustainability of provision and the successful transfer to a new owner.

There is the wider issue with Four Seasons Healthcare and their financial sustainability but all advice from the Care Quality Commission, Local Government Association and the Association of Directors of Adult Social Services is to maintain current commissioning arrangements and treat as business as usual.

There is currently one new care home that will open in the Whitley Bay area in mid to late 2020, this will be for privately funded clients only and it is not expected to take publically funded clients through the Authority. Whilst this home will not be directly impacted by this Pricing Strategy, it may have an impact whereby it takes private clients from other care homes or who may have gone to other care homes, thereby making those care homes more reliant on publically funded clients through the Authority.

Vacancy Levels

Week commencing 17 June 2019, there were 182 vacancies across all of the care homes operating in North Tyneside. This represents a vacancy level of approx. 12.5%. This has reduced over the last year, where it had been nearer 16%.

Whilst this is an average, it ranges from 0% in some care homes up to as high as 55% in one other care home.

The overall level and number of vacancies in individual care homes and across all care homes can have an impact on the viability and sustainability of individual care homes and the sector itself.

Current weekly payment levels

The Authority has agreed with care home providers an interim payment level from 1 April 2019, pending further work to be completed on the cost of care home provision in North Tyneside. The purpose of this Proposed Pricing Strategy is to propose draft fee levels from 1 April 2019 and provide evidence to support this.

The following table sets out the numbers of care homes in each band and the current payment level linked to each band:

	No. of Care Homes	Interim Rate Weekly Price – general care	Interim Rate Weekly Price – dementia care
Grade 1	19	£587.09	£607.93
Grade 2	7	£551.09	£574.14
Grade 3	3	£516.32	£536.89
Grade 4	1	£487.35	£503.00

Whilst the above rates are paid to each provider for each client based on their latest quality monitoring score, the blended / average rates of these rates is £569.23 (based on commissioned places):

		2019/20 Interim	Blended Rate
Residential Care	Grade 1	£587.09	£569.23
	Grade 2	£551.09	
	Grade 3	£516.32	
	Grade 4	£487.35	

Quality of Care Home Provision – Local Authority Quality Monitoring

The current arrangement for the assessment of quality of provision by the Local Authority is linked to an annual quality monitoring visit and a subsequent report with a banding payment in place.

The assessment / quality monitoring process used for the bandings in 2019/20 is based on the following scoring methodology.

Assessment Criteria and Domains		Percentage of the overall score
Quality monitoring tool and on-site assessment	Is the service safe?	70%
	Is the service effective?	
	Is the service caring?	
	Is the service responsive?	
	Is the service well led?	
Physical environment, assessment on the day by the Commissioning Officer		5%
Environment score based on GLP tool		25%

The current quality monitoring tool includes five domains / outcome areas. There are also a number of sub-outcome areas and measures in place to be able to capture the right information and evidence to support the overall outcome score and rating.

In addition, weightings for eight of the sub outcome areas which were identified as high priority outcomes have been introduced.

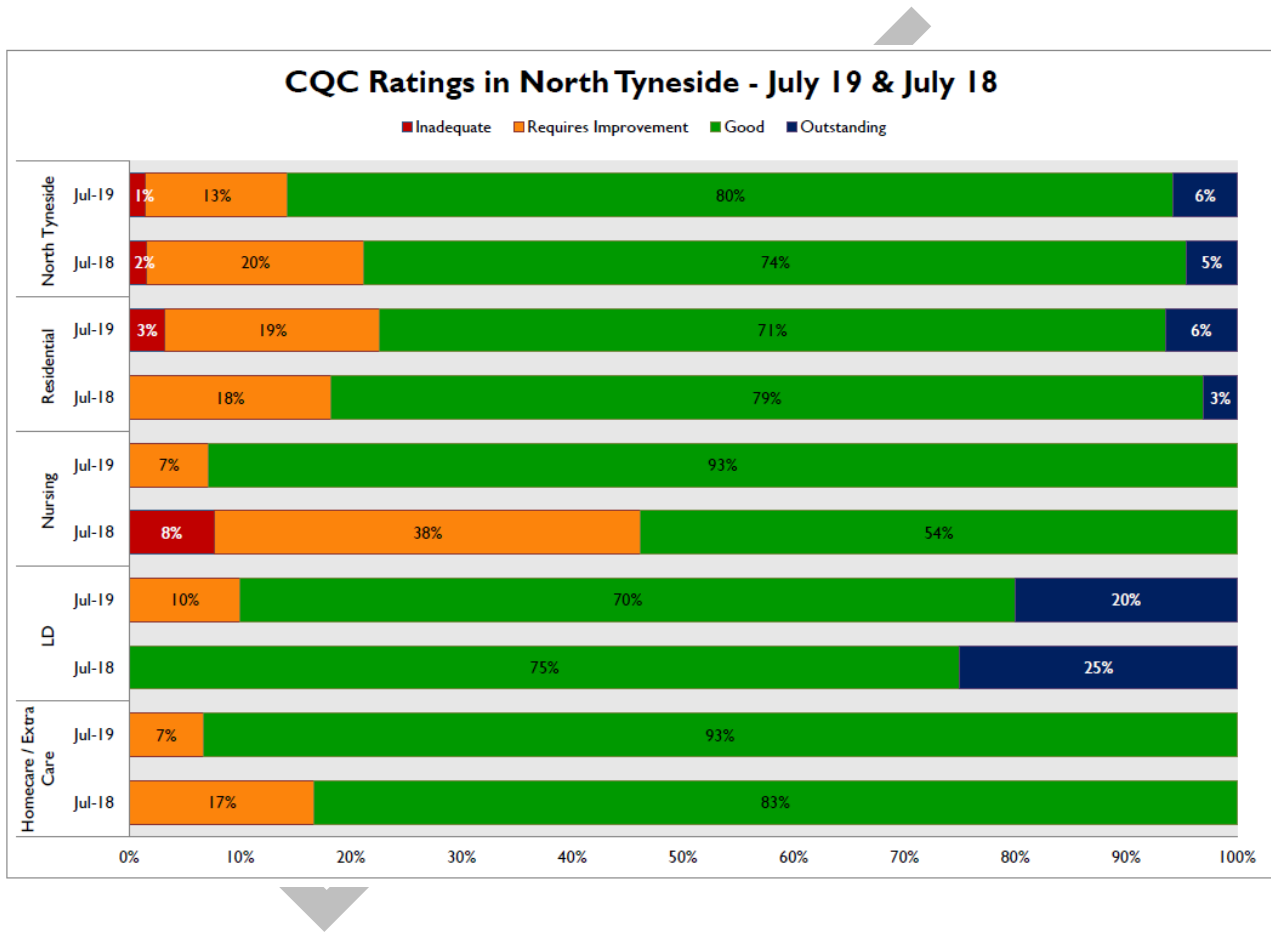
Overall, from the last series of quality monitoring visits in 2018 against the previous ones in 2016, there was an overall reduction in the average score from 84.85% to 81.22%. It is felt that this was due to the introduction of the weightings to the scoring methodology.

There is a need to further review the quality monitoring methodology and the assessment process alongside the prices paid for each of the band levels.

Consideration of this is set out later in this document.

Quality of Provision – Care Quality Commission

Over the last year we have seen an overall improvement in the CQC ratings following inspections of residential and nursing homes in North Tyneside, with a significant change / reduction in the number of nursing home services that were inadequate or requires improvement.



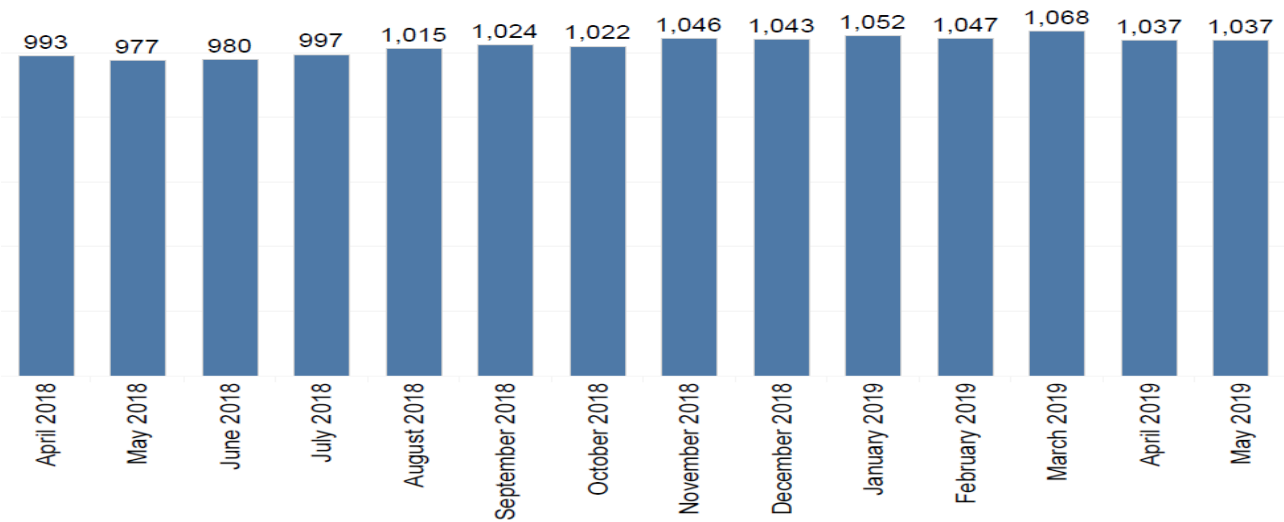
Current Market Requirement in North Tyneside

Demand

The number of people in care home provision funded by North Tyneside Council has increased slightly over the last year. This will include placements in care homes outside of North Tyneside.

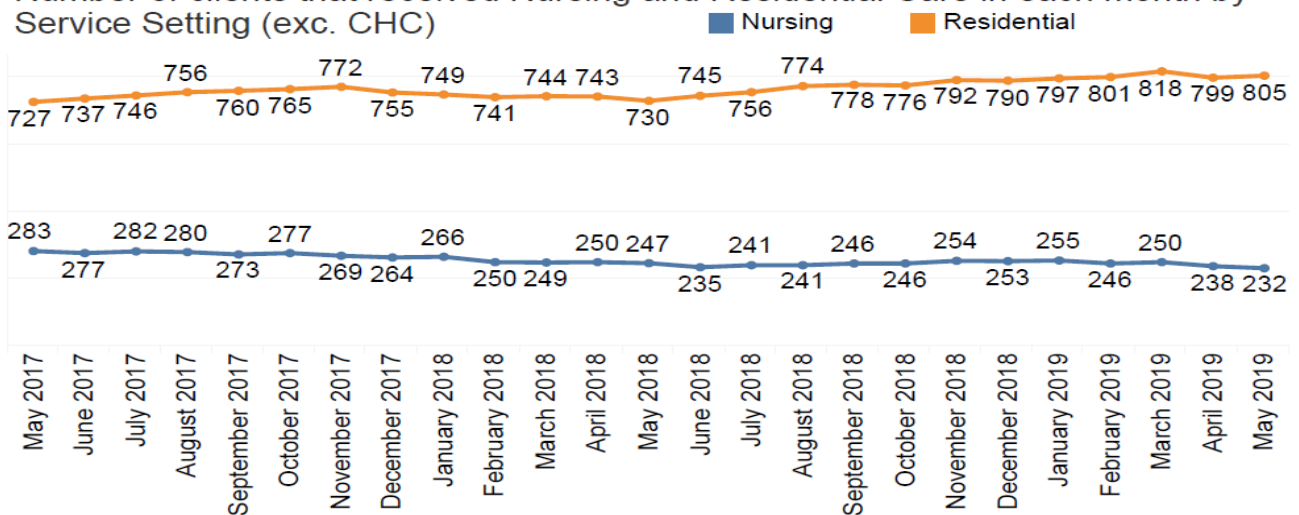
Adult Social Care – Proposed Pricing Strategy for Older Person’s Residential Care – July 2019

Number of clients that received Nursing and Residential Care in each month (exc. CHC)



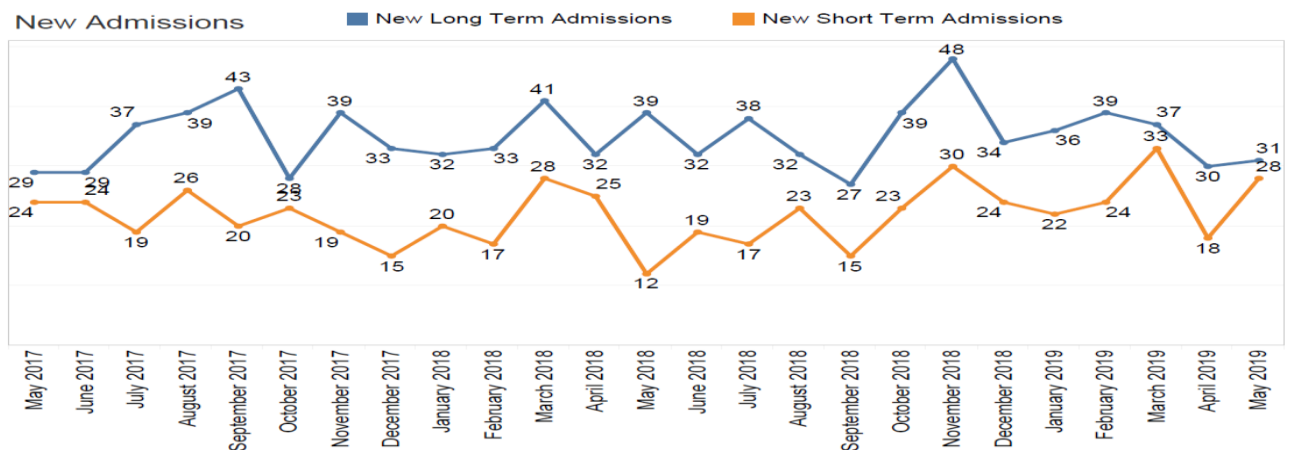
When looking at the split between residential and nursing numbers we have seen a reduction in numbers of people in nursing beds against an increase in residential beds.

Number of clients that received Nursing and Residential Care in each month by Service Setting (exc. CHC)



Overall, though there is a reduction of new placements into care home provision.

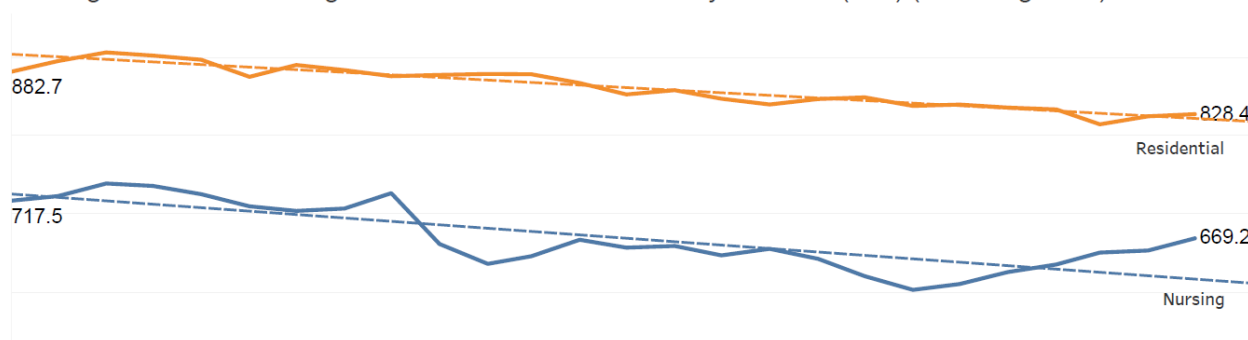
New Admissions



The Authority continues to be committed to its strategy of supporting people to continue to live at home for as long as possible and delay the need for residential based care and support wherever possible.

As we do this, those moving into residential / nursing care will be more dependent.

Average number of bed nights for clients in care on last day of month (65+) (excluding CHC)



The average length of stay for both residential and nursing care has reduced over the last two years

Pricing Models – Care Home Provision

There are a number of different pricing models or organisations that can undertake a care cost exercise based on care home information.

The Chartered Institute of Public Finance and Accountancy was commissioned by the Department of Health (DH), the Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS) to co-ordinate production of this guide in agreement and consultation with the Care Provider Alliance (CPA), as part of a joint programme of work to support the implementation of the Care Act.

The guide was published in January 2017 - <https://www.cipfa.org/policy-and-guidance/reports/working-with-care-providers-to-understand-costs>

Within the guide there were two examples, one from Laing & Buisson and one from ADASS setting out illustrative examples of the costs associated with the delivery of residential care.

It is clear from the guidance, that the information from Laing & Buisson and ADASS is illustrative and helpful to demonstrate the range and levels of costs and that they are not intended to be definitive.

The following information uplifts the costs based on changes in the National Living Wage and the Consumer Price Index from April 2016 to date.

Laing & Buisson Model

Appendix 2 shows the breakdown of the costs in the Laing & Buisson model. The increase in the national living wage and the consumer price index has been applied on the basis of a 70:30 split in cost to bring the costs up to date.

	Indicator	Percentage Uplift	Aggregated Percentage Uplift	Weekly Cost	Updated weekly cost with ROCE (£63.98)
Baseline cost – April 2016				£461.60	
Increase – April 2017	National Living Wage	4.2%	3.6%	£478.22	
	Consumer Price Index	2.3%			
Increase – April 2018	National Living Wage	4.4%	3.8%	£496.39	
	Consumer Price Index	2.5%			
Increase – April 2019	National Living Wage	4.166%	4.0%	£516.24	£580.22
	Consumer Price Index	2.3%			
Comparison – Current Interim Proposal – Fees 2019/20 (Grade 1)					£587.09

ADASS Model

The increase in the national living wage and the consumer price index is applied on the basis of a 70:30 split in cost.

	Indicator	Percentage Uplift	Aggregated Percentage Uplift	Weekly Cost	Updated weekly cost with ROCE (£63.98)
Baseline cost – April 2016				£463.00	
Increase – April 2017	National Living Wage	4.2%	3.6%	£479.67	
	Consumer Price Index	2.3%			
Increase – April 2018	National Living Wage	4.4%	3.8%	£497.90	
	Consumer Price Index	2.5%			
Increase – April 2019	National Living Wage	4.166%	4.0%	£517.82	£581.80
	Consumer Price Index	2.3%			
Comparison – Current Interim Proposal – Fees 2019/20 (Grade 1)					£587.09

Care Fund Calculator Model

This is the tool the Local Authority has used in order to arrive at the draft proposed rates in this Draft Pricing Strategy for 2019/20.

The care fund calculator model uses a range of service and staffing inputs to calculate a cost range for care home provision. The model takes account of a range of cost indices to ensure that the costs used in the model are specific to the locality / area.

The model also uses living wage information and employee cost indicators. Appendix 4 to this document sets out the detail of this.

Information from 30 older person's homes in North Tyneside has been received and analysed as part of this review work. This includes dependency tool information that is used to determine staffing levels based on the needs of clients living in the home at a given point in time. This information together with the data held within the care fund calculator model is used to determine a cost range for care home costs.

The costs in the calculator take account of the "social care" "care home" costs only and do not include any nursing costs. It is proposed that all costs associated with nursing care will be met through the funded nursing care element of the placement (from April 2019 this is set at £165.56 per week). Information in relation to nurses and nursing provision has been excluded from this analysis. In addition the figures exclude any continuing health care costs as these will be met by the CCG through the CHC top up of £60.00 per week from April 2019. Though it is noted and accepted that the CCG use the social care base cost, the FNC cost and the CHC top up cost to calculate the overall payment of the CHC placement.

The analysis from the 30 care homes includes:

- Employee daytime care costs, including on-costs
- Employee shared night time care costs, including on-costs
- Management costs
- Support staff costs
- Non-staff costs

Any additional 1:1 hours in place at the time of undertaking this work are excluded. However the care fund calculator tool can identify and quantify the cost of additional 1:1 support for individuals.

The employee on-costs take account of the following:

- National insurance - 6.4%
- Holiday - 32 days per annum
- Sickness - 5.5 days per annum
- Pension - 1.8%
- Training - 5 days per annum

The following rates of pay are included in the tool for the overall calculation:

- Care staff – basic grade - £8.49 per hour (£10.66 including on-cost)
- Care staff – senior grade - £9.26 per hour (£11.63 including on-cost)
- Administration staff - £10.08 per hour (£12.66 including on-cost)
- Deputy Manager - £12.10 per hour (£15.20 including on-cost)
- Manager - £21.14 per hour (£26.55 including on-cost)

For reference the National Living Wage from 1 April 2019 is set at £8.21, the tool uses a rate higher than this based on evidence on rates of pay from the NMDS dataset, more information on this can be found at appendix 4.

The Care Fund Calculator tool takes account of the effective and efficient operation of care home provision and includes cost indicators based on information sourced from services and provisions around the country. The tool also takes account of local cost indicators and markets. This is used to arrive at one weekly cost – the “blended rate”. The tool does not consider the direct / total operating costs for each provider operating in North Tyneside.

Care Costs in North Tyneside – Care Fund Calculator Model

Weekly costs

In summary, the blended cost from the care fund calculator tool shows a weekly cost of **£572.60** per week.

This is broken down as follows:

Cost Type	Cost	Percentage	Summary %age
Daytime care costs	£176.60	30.84%	60.98%
Shared night time costs	£78.53	13.72%	
Management costs	£58.20	10.16%	
Support staff costs	£35.87	6.26%	
Sub-total of staff related costs	£349.20		
Non-staff costs	£223.40	39.02%	39.02%
Total – all costs – blended rate	£572.60	100%	100%

This is further broken down in the table in Appendix 5.

The above care costs take account of the following average staffing ratios, these are taken directly from the information supplied by care homes in their dependency calculator tools.

Care Type	Staffing Ratio to Clients
Day time care staff ratio	1:5.7
Night time care staff ratio	1:10.1

The blended rate can then be used as a basis for the calculation of the rates for each of the grades. This is done on the basis of the proportion of current costs and placement numbers across homes / placements in North Tyneside.

This is set out as follows:

		2019/20 Proposed	Blended Rate
Residential Care	Grade 1	£590.57	£572.60
	Grade 2	£554.35	
	Grade 3	£519.38	
	Grade 4	£490.24	

The rates for dementia care can be further increased by 3.70%, this is the current differential in general / dementia rates. This is further set out as follows:

	No. of Care Homes	Proposed Weekly Price – general care	Proposed Weekly Price – dementia care
Grade 1	19	£590.57	£612.42
Grade 2	7	£554.35	£574.86
Grade 3	3	£519.38	£538.60
Grade 4	1	£490.24	£508.38

Hourly costs for additional 1:1 staff

There are an increasing number of situations where additional 1:1 support is required for individuals in care home placements. This is led and determined through the assessment of need and is negotiated with each care home on an individual basis.

It is proposed therefore to introduce a new standardised cost for additional 1:1 carer support which can then be ‘added on’ to a given package as required.

The Care Fund Calculator tool gives the ability to include additional hours for an individual resident. This has been done on the basis of an additional 7 hours per week, 14 hours per week and 21 hours per week to take account of different situations of different requirements.

From this the average hourly rate over and above the standard weekly cost is calculated at £10.86, this is based on pay rate of £8.49 per hour (£10.66 with employer on-costs) plus additional other costs of £0.20.

It is recognised there is also an additional administrative cost associated with this. It is expected the default position is that additional hours will be offered to the existing staff team, including bank staff by default. However there maybe circumstances where there is the need to bring in agency staff to cover the additional 1:1 hours and it is recognised there is an additional cost associated with that.

The following table sets out these costs:

Care Staff	Care Staff Basic Rate	Including Other Costs	Including 20% Agency Cost	Including 20% Administration Cost
Using directly employed staff	£8.49	£10.86	N/A	£13.20
Using agency staff	£8.49	£10.86	£13.20	£15.54

Review of Quality Monitoring Tool

The current version of the quality monitoring tool has been in place for a number of years and a review of this is currently overdue.

The current quality monitoring tool that was used for the gradings in 2019/20 is based on the following:

Assessment Criteria and Domains		Percentage of the overall score
Quality monitoring tool and on-site assessment	Is the service safe?	70%
	Is the service effective?	
	Is the service caring?	
	Is the service responsive?	
	Is the service well led?	
Physical environment, assessment on the day by the Commissioning Officer		5%
Environment score based on GLP tool		25%
Total		100%

The grading linked to score is as follows:

	Quality Monitoring Score %
Grade 1	80 – 100
Grade 2	70 – 79.99
Grade 3	60 – 69.99
Grade 4	Less than 60

The GLP scoring was first used as part of the original cost of care exercise that was completed previously. It takes account of various environmental aspects of the provision such as room sizes, single rooms, corridor widths and was completed at a time originally when there was a range of different. At that time there was a level of importance to ensure

the accommodation and environmental standards were increased and this, over time, resulted in a number of new build care homes coming into the market.

The Authority now has a sufficient level of care homes and does not need at this time new provision in North Tyneside to meet future demand. It is therefore proposed to reduce the percentage of the GLP score in the quality monitoring score.

The Authority wishes to re-introduce the Independent Visitors process and has commissioned Healthwatch to undertake these visits across all care homes and the Authority proposes to include the results from this into the quality monitoring score.

The Authority wishes to introduce the Care Quality Commission rating outcome into the quality monitoring score. This will provide greater focus on the outcome of the CQC inspection and will increase the overall standard of care, quality of provision and overall ratings across North Tyneside. The feed into the quality monitoring score will be the latest published CQC inspection rating at the time the Authority’s gradings are finalised and published. However, throughout the year, as new CQC inspections are undertaken and new ratings published, the Authority will update this in the quality monitoring score and notify the provider of the outcome, any change will be effective from the date the CQC inspection report and rating is published. For clarity this may mean that gradings and payments to homes may increase mid year but equally they may decrease.

Where a care home is rated by CQC as inadequate the Authority will reserve the right to suspend placements and admissions into that home, where the subsequent CQC rating is also inadequate the Authority reserves the right to decommission existing placements in that care home.

As a result of the above the Authority proposes the following revised

Assessment Criteria and Domains		Percentage of the overall score
Quality monitoring tool and on-site assessment	Is the service safe?	60%
	Is the service effective?	
	Is the service caring?	
	Is the service responsive?	
	Is the service well led?	
Environment assessment (on the day)		
Environment score based on GLP tool		10%
Independent Visitor – user voice		5%
Care Quality Commission rating <ul style="list-style-type: none"> ▪ Outstanding – 25 ▪ Good – 20 ▪ Requires improvement – 10 ▪ Inadequate – 0 		25%
Total		100%

The grading linked to score is as follows:

	Quality Monitoring Score %
Grade 1	85 – 100
Grade 2	70 – 84.99
Grade 3	60 – 69.99
Grade 4	Less than 60

Dealing with Future Inflationary Price Increases

The present draft contract for residential care services provides for annual increases in the rates paid. Historically these have been linked to general cost of living increases.

However, over the last three years with the introduction of the National Living Wage and the above inflationary increases, the Authority has taken account of the additional cost increase with this and applied a higher percentage to employee cost element of the overall price.

In the increase in April 2019, this was calculated at 4% on the basis of:

Inflator	Proportion of cost	% increase	Total increase
Living wage (November 2018)	0.70	4.85%	3.40%
Consumer price index (Jan 2019)	0.30	1.80%	0.54%
Total			3.94%

Whilst the above proportion of cost is based on 70:30 split, the cost breakdown in the Care Fund Calculator tool is 61:39 (see page 15 above for reference).

There are two options for dealing with future inflationary increases.

- (a) A percentage increase on baseline cost based on a methodology of a split proportion of Living Wage and Consumer Price Index increases; or
- (b) An annual re-run of the agreed funding model?

Equally, the cost breakdown in the Care Fund Calculator tool gets uplifted in advance of April in each year and there is the option to re-run the modelling used in this pricing strategy in each year to determine the fees.

The Authority’s preference is to re-run the agreed funding model in March of each year to calculate fees from April in the forthcoming year. This gives a high degree of transparency about the costs and breakdown on costs in each year.

Weekly rates payable to individual care homes will be able to be determined from this and also the outcome of the quality monitoring exercise to determine individual home grades.

Impact Assessment

An impact assessment has been completed and this is included at Appendix 6. This sets out the detail of the proposed pricing strategy and how this will impact on care home providers, residents and other stakeholders.

The impact assessment will be updated following the consultation exercise.

Appendices

Appendix 1	ASC Commissioning Intentions 2019/20
Appendix 2	Laing & Buisson breakdown of costs in residential care
Appendix 3	ADASS breakdown of costs in residential care
Appendix 4	CareCubed Care fund Calculator Model
Appendix 5	Breakdown of costs
Appendix 6	Impact Assessment

Appendix 1 – Adult Social Care Commissioning Intentions 2019/20



North Tyneside Council

Adult Social Care Commissioning Intentions 2019/20

Improving the customer experience – taking a step back and examining what we do from our customer's perspective; ensuring customers feel informed, see timely action and receive a clear outcome:

- Capture user experiences of services and feed these into reviews to ensure that services provided in North Tyneside are of high quality and offer value for money
- Promote choice and a range of support options for people
- Ensure services are cost effective and that payment processes are in place
- Procure a new contract for advocacy to ensure we meet our statutory advocacy requirements.

Responding to rising levels of complex and comorbidity need –collaborating to engage customers, staff, the care and support market and local partners, to respond to the challenges we face:

- Award of home care and extra care contracts and ensuring sufficiency of supply across North Tyneside with effective and efficient service delivery
- Grow the social care workforce to ensure there is a suitable supply of competent and well trained care and support staff
- Ensure a range of accommodation based services exist to support people to maintain independence in the community by:
 - Increasing extra care provision across the borough, especially to support people with a dementia
 - Further development of the Shared Lives offer
 - Ensuring housing for people with a disability is suitable to meet the needs of the individual
 - Working with health and education to review and develop the care, support and accommodation provision under Transforming Care
 - Developing supported accommodation options for people who present with a range of challenges, such as:

homelessness; mental health; and drug or alcohol needs

- Review of crisis and respite support for working age clients with mental health needs.
- Continue to work with the CVS to provide a range of preventative services
- Develop North Tyneside Autism Strategy
- Support people in their caring role by improving how we identify and support carers' health and wellbeing needs and access to a personal budget
- Work collaboratively with the CCG and with Providers to monitor the supply and demand for residential and nursing home provision across the borough, including models to support discharge from hospital.
- Review and develop the range of community based day services and outreach provision to support people with complex needs.

Effectiveness and efficiency of assessment and service delivery – going back to basics on the purpose of assessment and care and support, ensure the customer is at the centre of everything we do:

- Promote choice and a range of support options for people
- Continue to promote the use, uptake and benefit of direct payments / personal budgets for individuals
- Develop Personal Assistant model and availability of PA's to support people with a direct payment.
- Ensure new social prescribing contract is embedded in prevention
- Continue to promote progression and recovery models of support.

Using technology to promote independence and deliver services effectively – continuing our journey to integrate technology, where it improves the wellbeing of our customers and enhances the skills and resources of our staff:

- Enhance and promote the Assistive Technology offer as an alternative to care or to compliment care packages.

Appendix 2 – Laing & Buisson breakdown of costs

Extract from CIPFA guide – Working with care providers to understand costs

<https://www.cipfa.org/policy-and-guidance/reports/working-with-care-providers-to-understand-costs>

LaingBuisson breakdown of costs in residential care

[note that this breakdown excludes rent]

Revenue cost head – sample breakdown	2016 – estimate <i>Illustrative</i>	
	Nursing £	Personal £
Nursing costs	151.74	
Care costs	201.75	201.75
Domestic and other hourly-paid staff	85.66	85.66
Salaried staff	31.58	31.58
Food	26.71	26.71
Utilities, phone, Council Tax	24.99	24.99
Insurance	4.94	4.94
Registration fees	3.47	3.47
Recruitment	2.73	2.73
Direct training expenses	1.89	4.18
Cleaning, uniforms, disposal, waste,	16.72	12.09
Travel, outings, TV	2.02	2.92
Externally purchased services	4.10	4.71
Other non-staff current expenses	13.04	13.04
Repairs and maintenance	39.03	39.03
General overheads	3.79	3.79
Total of these revenue costs	614.16	461.60

Appendix 3 – ADASS breakdown of costs

Extract from CIPFA guide – Working with care providers to understand costs

<https://www.cipfa.org/policy-and-guidance/reports/working-with-care-providers-to-understand-costs>

ADASS breakdown of costs in residential care

[note that this breakdown includes rent]

Residential care	2015/16 model	Uplifted rate 2016/17
Bed number	48	48
Occupancy	94%	94%
Beds filled	45	45
<i>Cost heads per resident per week</i>		
Care costs per resident		
Qualified nurse staff		
Care assistant staff (including activities)	160	176
Management/administration/reception staff	33	33
Catering, cleaning and laundry staff cost per resident	45	46
Training expenses	5	5
Registration fees and recruitment	4	5
Corporate overhead	25	27
Total staff	271	292
Accommodation costs per resident		
Food	26	26
Utilities (gas, oil, electricity, water, telephone)	10	13
Catering, cleaning and laundry staff cost per resident		
Handyman and gardening (on contract)	7	7
Insurance	5	5
Non-food supplies and rentals	4	4
Repairs and maintenance (revenue costs)	16	16
Rent and mortgage payment	92	92
Corporate overhead	8	8
Total accommodation costs	168	171
Total of these revenue costs (add assumed £151 for nursing care)	439	463

Appendix 4 – CareCubed Care Fund Calculator Model

Note – this information comes directly from CareCubed and identifies how the model deals with various aspects of the costs of delivering residential care provision.

1 Summary

The CareCubed cost model is reviewed and updated every year to ensure that it continues to provide a good basis for negotiation of care packages. CareCubed is designed to provide a transparent, fair price for care packages, based on the needs of the individual person supported, that is fair to both commissioners and providers.

This year CareCubed will be updated with revised cost data ready for 4th March 2019.

Each year as a minimum, the following changes are applied:

- property prices are updated in line with Land Registry data
- hourly rates are updated in line with inflation
- non-staff costs are updated in line with inflation.

More comprehensive reviews and updates are undertaken as necessary, based on user feedback, policy development, and general economic conditions. This year we have undertaken a more comprehensive review and update of:

- hourly rates
- employer on-costs
- cost groups

2 Skills For Care and National Minimum Data Set for Social Care

This year we commissioned an extensive review of the CareCubed hourly rates, employer on-costs, and cost groups. We were looking for robust analysis based on an extensive and reputable data set, so chose Skills for Care.

Skills for Care helps create a well-led, skilled and valued adult social care workforce. They’re a trusted independent charity with over 18 years’ experience in workforce development, working as a delivery partner for the Department of Health and Social Care.

Their **National Minimum Data Set for Social Care** (NMDS-SC) is an online data collection system which means they are the leading source of workforce data for the adult social care sector in England. It holds information on approx. 22,000 care providing locations and 750,000 workers.

3 Changes to cost model

3.1 Staff costs

3.1.1 Hourly rates including new National Living Wage

Hourly rates for England have been analysed across the NMDS-SC. In brief, “current” rates have been established and then an allowance made for the increase in National Living Wage (NLW) on 1st April 2019.

The increase in NLW on 1st April 2019 from £7.83/hr to £8.21/hr, is an increase of 4.9%. The impact of this is greatest on the lower paid workers, with smaller increases for the higher paid workers.

Rates for Scotland and Wales have been determined by matching of Office of National Statistics (ONS) data to English comparators.

3.1.2 Sleep-in rates

For the purpose of national living wage (NLW) compliance, government guidance in 2017 was that all hours of sleep-in shifts should be counted as working hours. Therefore in March 2018 we adjusted sleeping-in rates in the CareCubed model with each hour of a sleep-in shift paid at NLW level.

In July 2018, the Court of Appeal overturned the previous employment tribunal ruling in *The Royal Mencap Society v Tomlinson-Blake* case, so now sleep-in shifts do not necessarily count as working hours for the purposes of national minimum wage/national living wage.

However, on 13th February 2019, the Supreme Court granted permission for an appeal against last summer’s Court of Appeal judgment affecting care workers on sleep-in shifts. Given the uncertainty of the position, iESE have chosen to continue with each hour of a sleep-in shift paid at NLW level in the CareCubed model.

We will review it again once the Supreme Court have decided the outcome of the appeal.

3.2 On costs

On-costs are the additional costs to employers above the hourly rates paid to staff e.g. national insurance and pension contributions, and payment for times when the staff member is not delivering care e.g. sick, holiday, training.

Worker-level pay records in NMDS-SC were analysed to calculate effective rates for NI and pensions, taking into account pay thresholds for contributions. The resultant NI figure is 6.4%.

On 1st April 2018, the minimum employer pension contribution rises from 2% to 3% of **eligible** earnings. We have amended the pension contribution in CareCubed to 1.8% of all staff pay.

Note: The lower threshold for eligible earnings is £6136 p.a. for 2019/20 i.e. employer pension contributions are not due on the first £6136 p.a. of earnings. For staff earning at or near NLW, this represents a significant proportion of their earnings on which employer pension contributions are not due, and the figure of 1.8% in CareCubed takes that into account.

NMDS-SC includes data on number of days sickness for each directly-employed member of staff, and this has been used to review the allowance for sickness in CareCubed, which has been amended to 5.5

3.3 Non-staff costs

Typically we increase non-staff costs by the GDP deflator index published by PSSRU, with any adjustment as necessary for difference between the previous year’s estimated figure (as applied in last update to CareCubed) and actual figures now published by PSSRU. This year the net increase applied to non-staff costs is 1.9 %.

3.4 Cost Groups

Cost groups have been reviewed and reworked with reference to ONS data and NMDS-SC pay data.

As previously, this has resulted in 4 cost groups ranging from lowest (cost group 1) to highest (cost group 4) cost areas. However, allocation of local authorities to cost groups has changed in some cases.

3.5 Property costs (ROCE)

For residential cases, the return on capital employed (ROCE) calculation uses a 3-year rolling average of house prices per local authority district and property type. We have updated the calculation to use the most recent year’s data as follows:

- For England and Wales using Land Registry data to Dec 2018.
- For Scotland, using Registers of Scotland data to Nov 2018.

A ROCE rate of 13% has been used in the Care Funding Calculator. This rate is applied to the value of the property as defined above. This is a blended rate based on an assumption that the provider organisation will have financed the purchase of the property through a combination of 20% commercial investment and 80% mortgage. The 20% investment assumes a requirement for a 15-20% return, the 80% mortgage, a requirement for an 8% return. This methodology was recommended following research commissioned from the University of West England (UWE).

A weighting has been applied to Land Registry data on which the ROCE is calculated of 55% of average for cost group 1, 60% of average for cost groups 2, 3 and 4. This decision is based on 2 factors:

- i. research with providers whose median stated costs for ‘mortgage’ or ‘rent’ plus ‘profit’ was usually lower than the amounts indicated by the average costs using random test locations.
- ii. an expectation that providers of services will seek cost-efficient properties in an area from which to deliver services. These properties are likely to be below average value compared to the district as a whole.

The ROCE is divided equally between the number of service users in the home.

ROCE replaces the elements of ‘profit’, ‘mortgage’ and ‘rent’ where these have been used in other costing models.

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Appendix 5 – Breakdown of Costs

Calculations		
Daytime care costs		
		Subtotal
Day hours - basic grade	£176.60	
Day hours - senior grade	£0.00	
Day hours - nurse	£0.00	£176.60
Night time care costs		
		Subtotal
Sleeping in Staff	£0.00	
Waking night	£78.53	£78.53
Management & Nursing		
		Subtotal
Nurse	£0.00	
Senior Care (Shift Leader)	£20.10	
Deputy	£14.05	
Manager	£24.05	£58.20
Support staff		
		Subtotal
Administration	£15.94	
Other care	£19.93	£35.87
Non-Staff Costs		
		Subtotal
Food / Provisions	£34.56	
Social Activities	£9.07	
Transport	£11.91	
Holidays	£0.00	
Utilities: H/L/W	£14.32	
Building maintenance	£18.78	
Cleaning materials	£4.20	
Insurance	£5.30	
Office costs	£33.55	
Reg Fees (CQC)	£2.95	
Recruitment costs	£1.34	
Staff training	£3.66	
Contingency & Other	£19.78	
Return on capital (for owned properties)	£63.98	£223.40
Total		£572.60

Appendix 6 – Impact Assessment

1. Author, service area, date

Scott Woodhouse, Strategic Commissioning Manager Adults, People Based Commissioning Team, 8 July 2019

2. Who else has been involved in writing this EIA?

Adult Social Care, Finance, Legal

3. What proposal is this EIA assessing?

Pricing strategy for Adult Social Care for residential care provision for older people – 2019/20.

4. What is the purpose of your proposal and what is it expected to achieve?

The purpose of the proposal is to consider the development of a pricing strategy and set of baseline costs for the commissioning of residential care placements from the external care sector.

Each year the Authority is expected to agree a set of rates with care home providers and in doing so take account of the cost of providing the care being delivered. Any annual increase in fees will take account general price increases, ie consumer price index and employee wage increases, ie national minimum wage or national living wage.

The pricing strategy sets out proposals for:

- *Setting a rate for residential care services for older people;*

- Application of a differential rate for EMI / dementia care, using the residential rate as a basis for this;
- Application of a banded payment rate for different grades of residential care, following the completion of a quality monitoring visit and using the residential blended rate as a basis for this;
- Review of the quality monitoring tool and the scoring methodology;
- Determination of an hourly rate for additional 1:1 care, as determined following assessment and as detailed in individual support plans;
- Dealing with future inflationary price increases, including general cost increases and living wage increases;
- Formalising all of the above in a new three year contract / agreement.

5. Is there any relevance to the aims of the public sector equality duty?

Aim	Yes, No, or N/A	Details if ‘yes’
<i>Eliminate unlawful discrimination, victimisation and harassment</i>	No	
<i>Advance equality of opportunity between people who share a protected characteristic and those who do not</i>	Yes	<p><i>This EIA includes steps taken to eliminate discrimination, victimisation and harassment. The rates to be applied will be used transparently and equitably whether the service is commissioned by the Local Authority or a person makes their own arrangements. The rates will set a baseline for the Authority to determine its standard costs for residential care placements and can be used as a baseline for privately funded placements though it is acknowledged that care home providers may charge a different and higher rate for privately funded placements.</i></p> <p><i>This EIA aims to show that people with a protected characteristic are not treated with any disadvantage in comparison to service users without a protected characteristic.</i></p>
<i>Foster good relations between people who share a protected characteristic and those who do not</i>	No	

6. Analysis by characteristic

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
Age	Neutral	<p><i>The placements to be made within this pricing strategy will generally be for older people, ie people over the age of 65. The pricing strategy does change depending on the age of the individual. All placements for people over the age of 65 (ie pensionable age) will be paid at the same rate in each home.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>
Disability	Negative	<p><i>All of the people in residential placements in care homes for older people will have eligible care and support needs as determined by the Care Act 2014.</i></p> <p><i>There is a differential / enhanced payment in place for people with a dementia as it is recognised this will likely result in increased costs for the provider to care and support for these individuals, ie increased training costs, wage costs or staffing levels (due to higher dependency overall). In addition to this there is a further payment for nursing services that is set at a national level by the Department of Health and Social Care and also a locally determined payment level for continuing healthcare clients. Payment for both of these is the responsibility of the NHS / Clinical Commissioning Group.</i></p> <p><i>The fixed rate needs to be evidenced to be accurately calculated and sustainable to providers delivering services in North Tyneside. There is a risk that choice of provider will be limited as some providers may not be able to deliver services at the rate set by the Local Authority. Many Providers have already made efficiencies and passed these on to the Local Authority.</i></p>

Adult Social Care – Proposed Pricing Strategy for Older Person’s Residential Care – July 2019

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
		<p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>
Gender	N/A	<p><i>The rates paid will be the same irrespective of client gender.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>
Gender reassignment	N/A	<p><i>The rates paid will be the same irrespective of client gender reassignment.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>
Marriage and civil partnership status	N/A	<p><i>The rates paid will be the same irrespective of client marital or civil partnership status.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>
Pregnancy and maternity	N/A	<p><i>The rates paid will be the same irrespective of client pregnancy or maternity status.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
Race	N/A	<p>The rates paid will be the same irrespective of client race.</p> <p>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</p>
Religion or belief	N/A	<p>The rates paid will be the same irrespective of client religion or belief.</p> <p>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</p>
Sexual orientation	N/A	<p>The rates paid will be the same irrespective of client sexual orientation.</p> <p>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</p>

7. Have you carried out any engagement in relation to this proposal? If so, what?

The following information has been received and considered as part of the completion of this document:

- Feedback from care home providers and Care North East – North Tyneside as part of the care home fee setting process over the last two years;
- Understanding of care home fees paid by other Local Authorities in the NE region;
- Information from 30 care homes for older people operating across North Tyneside on staffing levels and dependency ratings of the clients they have in their care homes;

Furthermore, this document forms part of an open engagement / consultation exercise with all care homes for older people operating across North Tyneside and also with Care North East – North Tyneside (being the representative body of a majority of the care homes operating in North Tyneside).

Information from this will be reviewed by the Authority and will feed into final decisions on the pricing strategy and this Equality Impact Assessment.

8. Is there any information you don’t have that you need to find?

None

9. What actions are already in place, or will be taken, to remove or reduce potential negative impacts?

Action	Responsibility	Timescale
Quality monitoring tool to be reviewed and updated, this tool is used to monitor provider performance	Commissioning	October / November in each year
Review of the pricing strategy on an annual basis – rates paid for care home provision, due to inflationary uplifts	Commissioning	January to March in each year
Quality monitoring tool to be extended to include other areas of performance monitoring to measure impact of fixed rate setting.	Commissioning	October / November in each year
1:1 meetings with Care Providers to understand the impacts and concerns affecting individual provider organisations	Commissioning	As required

10. Are there any potential negative impacts that cannot be removed or reduced? If so, why is this?

None

11. Based on your conclusions from this assessment, what are your next steps?

The next steps relating to the development and implementation of the pricing strategy are:

- *Consult with care home providers and other interested stakeholders on the pricing strategy*
- *Agree the pricing strategy, set the rates and make payment based on this, also to review the quality monitoring process to reflect the agreed principles as set out in the document*
- *Pricing strategy document and EIA to be published and circulated to all providers, carer groups etc*

12. How will the impact of this proposal be monitored after it is introduced?

Monitor and review through actions identified at 9 above

13. When will this EIA be reviewed?

October 2019 when decision is made on final pricing strategy

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NORTH TYNESIDE CARE HOME OWNERS ASSOCIATION ('NTCHOA')

RESPONSE TO:

NORTH TYNESIDE CARE HOME OWNERS ASSOCIATION CONSULTATION RESPONSE 2019/20

Introduction:

1. On 15 July 2019 North Tyneside Council ('the **Council**') produced its 'Pricing Strategy For Older Person's Residential Care 2019/20 Consultation Document' ('the **Consultation Document**'), which was circulated to care home owners in North Tyneside on 22 July 2019. Within the Consultation Document, the Council states announces that it "is proposing to review the weekly rates paid for residential and nursing home services 2019/20 for older people (and other groups as appropriate) and wishes to consult with the care home market in North Tyneside on its proposals". The proposals themselves are set out within the Council's 'Proposed Pricing Strategy For Older Person's Residential Care 2019/20' ('the **Pricing Strategy**'), which document accompanies the Consultation Document.
2. NTCHOA is an association made up of and represents the interests of independent care homes within North Tyneside. NTCHOA's interest is recognised by the Council within the Pricing Strategy (p.2).
3. This paper stands as the NTCHOA's formal response to the council's proposals.
4. While this paper is prepared by NTCHOA for and on behalf of its members, it does not stand to the exclusion of any other additional responses that any members and/or care providers may wish to make directly to the Council.

Consultation Obligations:

5. Having decided to consult, the Council is obliged to do so properly. In short, this means that it must take into account all relevant information and disregard all irrelevant information. It must also ensure that it provides sufficient information so that those responding to the consultation may do so intelligently.
6. At present and for the reasons set out within this response, the basis upon which the Council has formulated its proposals is unclear; the proposals applying a new methodology for calculating care home fees. In order for the Council to comply with its consultation obligations, it must first provide further information and allow sufficient time for consultees to consider this information and respond.

Extent of Consultation:

7. The Proposed Pricing Strategy sets out proposals for:
 - Setting a rate for residential care services for older people;
 - Application of a differential rate for EMI (Elderly Mentally Infirm) / dementia care, using the residential rate as a basis for this;
 - Application of a banded payment rate for different grades of residential care, following the completion of a quality monitoring visit and using the residential blended rate as a basis for this;
 - Review of the quality monitoring tool and the scoring methodology;

- Determination of an hourly rate for additional 1:1 care, as determined following assessment and as detailed in individual support plans;
 - Dealing with inflationary price increases over the life of the proposed new contract, including general cost increases and living wage increases;
 - Formalising all of the above in a new three year contract / agreement.
8. The proposals were circulated by the Council without prior engagement with care home providers and/or NTCHOA. Accordingly, there was no opportunity for providers and/or NTCHOA to seek clarification and understanding of the basis upon which the proposals were formulated.
9. The Council informed care home providers that it required responses to its consultation by 12 August 2019; that is, within 3 weeks of the Council circulating the Consultation Document. Particularly in light of the fact that the consultation fell over the holiday season, but in any event, this deadline was wholly insufficient to deal both with the principal issues of the Council's approach to fee rates and its proposed new commissioning contract; both of which are detailed and technical. Accordingly, within email correspondence commencing on 23 July 2019, NTCHOA informed the Council that it required more time beyond the holiday season, within which to consider and respond to the consultation. At the same time, NTCHOA provided the Council with an initial draft copy of its 'cost of care workings'.
10. Within its email correspondence with the Council, in an attempt to address the shortcomings in the information provided by the Council and the logistical timing challenges presented by the consultation, NTCHOA suggested a timetable for agreement with the Council. The Council declined NTCHOA's invitation/suggestion. However, on 28 August 2019, the Council agreed to extend time for NTCHOA to submit its response to the consultation to Friday 20 September 2019, which has since been amended to 24 September 2019. While it is understood that the Council would ideally like to receive a response also to the draft contract by this date, this is not possible within this timeframe and the current incomplete status of the contract. This response to the consultation does not, therefore, include NTCHOA's response to the proposed new contract, which the Council has acknowledged will and may form part of separate and ongoing work between the Council and care home providers/NTCHOA. For the avoidance of any doubt, NTCHOA will in due course provide a detailed response to the proposed new contract and wishes to engage further with the Council regarding the logistics of doing so.
11. The Council seeks to limit the extent of its consultation to the 7 questions it has raised within the Consultation Document. Further, the Council wishes to limit the responses to these questions to one side of A4 in font size 10. This is too restrictive and prevents full and sufficient responses addressing all relevant matters which fall for consideration. Were the Council to fail to take full consideration of consultation responses that stray beyond the 7 questions it has raised and/or exceed one size of A4 in font size 10 in response to each of these questions, the Council will fail in its public law consultation obligations to take account of all relevant considerations. NTCHOA trusts that the Council will not do this, thereby avoiding an unnecessary distraction to the central issues of importance and an undermining of the Council's duty of engagement and relationship with care home providers.

Background:

12. What they have missed out – refer and reserve position

'Statutory Obligations on the Authority'

13. On pages 3 to 4 of the Pricing Strategy, the Council endeavours to set out the applicable legal framework. It is not the function of this response to address the granular detail of the Council's legal obligations; rather it is for the Council to properly direct itself regarding these obligations and to comply with them. However, **there are two matters** which we consider it appropriate to address:

14. **The first matter** relates to the Council's omissions. The Council fails to reference paragraph 4.35 of 'The Care and Support Statutory Guidance' within the Pricing Strategy. This extract from the Guidance states:

"4.35 Local authorities should consider the impact of their own activities on the market as a whole, in particular the potential impact of their commissioning and re-commissioning decisions, and how services are packaged or combined for tendering, and where they may also be a supplier of care and support. The local authority may be the most significant purchaser of care and support in an area, and therefore its approach to commissioning will have an impact beyond those services which it contracts. **Local authorities must not undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality, for example, by setting fee levels below an amount which is not sustainable for providers in the long-term.**" (emphasis added)

15. The Council further fails to reference Annex 1 to the Statutory Guidance, including (but not limited to) paragraph 11) of Annex 1 where it states:

"In all cases the local authority **must have regard to the actual cost of good quality care in deciding the personal budget to ensure that the amount is one that reflects local market conditions.** This should also reflect other factors such as the person's circumstances and the availability of provision. In addition, **the local authority should not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care.** Guidance on market shaping and commissioning is set out in Chapter 4. Local authorities **must** also have regard to the guidance on personal budgets in Chapter 11, and in particular paras. 11.22-11.24 on calculating the personal budget." (emphasis added)

16. **The second matter** relates to Continuing Healthcare ('**CHC**'). On p.2 of the Pricing Strategy, the Council states: "The fee levels in this report will primarily be for older person's services for short term and long term care, but will also be used as a baseline for nursing and continuing healthcare provision". On p.13 of the Pricing Strategy, the Council states: "The costs in the calculator take account of the "social care" costs only and do not include any nursing costs. It is proposed that all costs associated with nursing care will be met through the funded nursing care element of the placement (from April 2019 this is set at £165.56 per week). Information in relation to nurses and nursing provision has been excluded from this analysis. In addition the figures exclude any continuing health care costs as these will be met by the CCG through the CHC top up of £60.00 per week from April 2019. Though it is noted and accepted that the CCG use the social care base cost, the FNC cost and the CHC top up cost to calculate the overall payment of the CHC placement".

17. In relation to this 'second matter', we comment as follows:

- In light of the fact that the Council confirms that fees proposed by the Council are being used a baseline for nursing and CHC, it is surprising that the Council fails to set out

any information regarding the legal framework that pertains to FNC and CHC and the setting of fee rates thereunder. This raises the question as to what (if any) considerations the Council has applied in the formulation of its proposal that the nursing care costs will be sufficiently met by FNC.

- The Council should be aware that the legal definition of FNC is restricted. The Council should be aware of the matters that have and those matters that have not been taken into account by the DHSC in its formulation of FNC rates. The Council should be aware, therefore, that insofar as providers (as they have been encouraged to do) have relied upon suitably qualified senior carers to deliver FNC funded services (under the direction of nurses), the senior carers time is not captured within the FNC fee rate. In light of the requirement that there not be any funding gaps and insofar as FNC is being delivered Council funded residents, it appears that the Council has not made any or any adequate enquiries and provision for these 'social care' costs that are not being met by the DHSC. These costs were previously identified by Mazars as running at a rate of £7 per resident per week. As the granular detail of the extent of the Council's enquiries into costs and the assumptions it has made therein are not fully known, we are not in a position to identify within the Council's figures, what the impact of this is. It is nonetheless an important issue that the Council does need to address and resolve.
- As we understand the Council's comments, CHC is an issue for the CCG despite the fact that the CCG does rely to an extent upon the Council's fee rates for social care. If our understanding here is incorrect, it is important that the Council makes this known to us. Otherwise, we merely make it known (as we have done in the past) that we do not consider it appropriate to rely upon the Council's fee rates in the setting of CHC. Further, that there are ongoing concerns regarding the CCG's failure to make adequate provision for the funding of CHC eligible residents who are within residential homes. We have been informed by the CCG that they have appraised the Council of issues surrounding the funding of individuals within care homes who are eligible for CHC funding. As this funding is not being released by the CCG, who seek to deliver the necessary nursing care through the District Nurse services, no additional funding is being provided for the additional 'social care' element. There is therefore presently a funding gap, which on the CCG's analysis must logically fall to the Council to meet. This issue has not been addressed either in the Council's analysis of the legal framework, nor its cost calculations and enquiries. It is an important issue that the Council does need to address and resolve.

Background:

18. There is a significant amount of background which the Council has omitted to address within the Pricing Strategy. Much of it is referenced within recent correspondence from David Collins Solicitors (sent on behalf of the NTCHOA) dated 26 March 2019. We do not propose referencing this further within this response, it is nonetheless relevant background, particularly with regards to the Council's approach to the care home market within North Tyneside and its delays in the discharge of its duties to the market. This we see again reflected within the present proposal which itself seeks to addressing the setting of fees for the year 2019/20, which is matter which the Council should have resolved prior to or shortly after 1 April 2019 – not at the end of 2019. The Council's failure to deal with this matter in a timely manner, (despite representations from NTCHOA) itself only serves

to create uncertainty within the care home market, thereby undermining that market contrary to Council's legal duties not to do so.

NTCHOA Cost of Care & Fee Analysis

19. As part of this submission we have included the Cost of Care report and findings that was undertaken by NTCHOA. This represented nearly 70% of the total number of available beds in the North Tyneside area. Out of the remaining 30% of beds that did not take part, FSHC & Roseberry Care Centres accounted for 20% and we have documented what we believe to be their current position.

20. Occupancy - The actual occupancy within the Cost of Care was 90.27% compared to the current council stated occupancy of 87.5%.

21. Costs - The actual costs are in excess of the CFC arrived costs and we have (in answer to 'Consultation Q1') detailed where we believe the major variances to be. However, we also make the following additional points:

- 1) We have inflated the costs for staff increases for April 2019 and this information is provided.
- 2) All the costs collected are specific to North Tyneside care homes. This is not the position under the CFC model adopted by the Council for the purposes of the proposals.
- 3) All costs collected are from March 2019 and relevant to the current fee discussions (with an increase in LW for April 2019 shown separately). We do not believe all the information collected by either the Council or CFC model is current and seek further clarification of this herein.
- 4) It should be recognised by the Council that there is a differential between general residential clients and general nursing clients which is not covered by FNC. There are additional care hours as evidenced by our report and there is a social element to nursing costs not covered by the FNC payment (as previously highlighted in the NHS review undertaken by Mazaars and adopted by LaingBuisson in its recent review of FNC costs).

22. Weekly Fee Analysis - We believe that it was important to demonstrate how other income, particularly the private market, impacted on the overall market in North Tyneside. This information is detailed in appendix 4 of our report. Putting aside for the purposes of this response, the legality of any reliance by the Council on cross subsidisation of the funding gap between its fee rates and that which is necessary - although private fees and TPT are cross subsidising some of the funding gap, there is insufficient income from them to sufficiently bridge the gap; thus providers can no longer sustain such a large shortfall. We make the following points regarding weekly fee income:

- 1) The total weighted average fee income is insufficient to cover the costs of care (excluding profit) for every category of care.
- 2) The Council fees are £54 to £132 short of the actual costs of care (excluding profit) for March 2019 and are clearly being subsidised by the private market to a large extent.

- 3) It is now clear why 20-25% of homes in North Tyneside are failing/closing in the past 12 months. It is our understanding that there would be more homes closing if they were not large corporations and able to cross subsidise from other parts of their business in other geographical areas.

The Proposals:

23. We will address each of the 7 questions asked by the Council:

Consultation Q1

‘Please consider the Proposed Pricing Strategy and in particular the information used by the Authority in order to arrive at the potential rates. Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why.

24. Of fundamental importance to the Council’s statutory and public law duties when considering and/or calculating the costs of care and what fee rate(s) are necessary in order to support a sustainable market (thereby discharging the Council’s legal duties), is the need to ensure that there has been a sufficient enquiry, and that the information relied upon by the Council is accurate and relevant to the local market. The Council must not misdirect itself.
25. There are a number of serious concerns regarding the approach the Council has taken and the information it has used in the formulation of the proposals. The full extent of these concerns cannot be fully realised on the basis of the limited information the Council has provided to date within the Consultation Document and the Pricing Strategy. As per the requests for further information/explanation that are set out below, the Council needs to address this so as to put NTCHOA and care providers generally in a position where they are able to consider and give fully informed responses to the Council’s consultation questions.
26. The Council references (and we assume considers) 3 different models for calculating providers actual costs. These are the Laing & Buisson 2016 model, and the 2016 ADASS and Care Fund Calculator model. As to each of these models, we comment as follows:

Laing & Buisson Model

- It is unclear why the Council has chosen to reference and rely upon an out of date L&B model when considering the costs of care in North Tyneside for the year 2019/20. We attach the most recent figures from the L&B model from 2018/19 (L&B P1-4). As can be seen, the final figures contained within this latest model show costs that are significantly in excess of the out of date costs considered and relied upon by the Council within the Pricing Strategy on page 12 for year 2019/20.
- The L&B model has its own ROCE calculations. It is therefore unclear why the Council has applied the CFC ROCE for this illustration. One cannot sensibly and rationally cherry pick from costing models.
- The Living Wage Increase for 2019 is incorrect. It should be 4.85%.
- Fundamentally, the model does not contain costs data that is specific to the North Tyneside area. NTCHOA has supplied robust local data to the Council, which the Council should rationally prefer and use over and above national data. The Council’s duties lie with the local and not the national care home market.

Adass Model

- The costs contained within the model are incredibly stale, having been collected over 5 years ago.
- The CFC ROCE has again been used. We repeat our comment above regarding the cross pollination of information (which may, as in this case, have been collected over different periods) and approaches from different costing models.
- Again, the Living Wage Increase used for 2019 is incorrect. It should be 4.85%.
- Again, the model does not relate to, nor contain data regarding the local care home market in North Tyneside.

Care Fund Calculator Model

27. The Council has used the CFC model in order to arrive at the draft proposed rates. There are serious concerns regarding the approach taken by the Council; that approach having led the Council to propose fee rates which are significantly and unsustainably below providers actual costs and the amount required so as to be sustainable in the short, medium and long term. Accordingly, the proposed fee levels are not consistent with the Council's market duties.
28. We have already supplied the Council with a detailed 'Cost of Care Report' prepared by NTCHOA (which the Council was invited to participate in) and which sets out actual costs data taken from care home providers operating in North Tyneside. We have further uplifted the costs in that report for Living Wage 2019 increase, so we can use this as a comparator to the costs in the CFC model.
29. We make the following points:
- 1) On p.13 of the Pricing Strategy, the Council asserts that it has received information from 30 older person's homes in North Tyneside; the Council having identified on p.6 of the Pricing Strategy that there are 31 older person's care homes in North Tyneside. The clear inference from the Council's assertion, is that the Council made specific and consistent cost related enquiries of 30 care homes in North Tyneside for the purpose of assimilating and using that data in the formulation of the proposals. However, having consulted with its members and having obtained cost related data from 18 of the care homes within North Tyneside, NTCHOA has not been able to identify any provider who has been knowingly approached by the Council for data and or information relating to their costs; nor what their financial requirements are in order to be able operate their services sustainably; nor the cost and broader market pressures they are currently facing. Accordingly, we have not been able to ascertain the nature (let alone the precise details) of the questions and enquiries made by the Council of care home providers as part of its review. This is important as we are at present endeavouring to fully understand how the proposals have come to be formulated and whether the information relied upon by the Council is accurate and reflective of providers' costs within North Tyneside. These are critical enquiries, not least because the Council has invited a response addressing the information it has used and the relevance of that information, but also within the context of trying to fully understand the significant differences that exist between those costs identified by the Council as reflecting the local costs in North Tyneside and those identified within the NTCHOA's

Cost of Care Report. We therefore ask that **within 10 working days of the submission of this response**, the Council discloses the following to us:

- Copies of the actual questions that the Council put to the 30 care homes it refers to, in order to elicit the information the Council refers to within the third paragraph on p.13 of the Pricing Strategy.
 - The dates and or period when these questions were put to these 30 care homes and when their answers to the questions were received.
 - An explanation as to why the Council did not send a copy of these questions to NTCHOA, and or inform NTCHOA that the Council was seeking information from providers relevant to the ongoing concerns being expressed by NTCHOA regarding the Council's setting of fee rates and NTCHOA's invitation that the Council engages with NTCHOA over the obtaining and collation of information.
 - If the Council did not put specific questions in a comprehensive format to the 30 care homes it refers to, please fully explain how the Council obtained the information that it refers to and over what period(s) does the information cover.
 - On p.13 of the Pricing Strategy, the Council says that the information it obtained included dependency tool information. Insofar at the answers to the above questions do not already address this point, please confirm whether the Council obtain actual information regarding actual staffing levels, and what (if any) enquiries did the Council make so as to ascertain the actual levels and costs of agency staff within these staffing levels.
 - On p.13 of the Pricing Strategy, the Council refers to certain costs which it says were included within its analysis. Of each of the cost heads analysed by the Council, please identify which contain actual costs taken from care homes within North Tyneside (stating which period(s) those costs relate) and which were analysed by reference to national data, identifying the precise source of that data.
 - On p.14 of the Pricing Strategy, the Council states: "The Care Fund Calculator tool takes account of the effective and efficient operation of care home provision and includes cost indicators based on information sourced from services and provisions around the country. The tool also takes account of local cost indicators and markets. This is used to arrive at one weekly cost – the 'blended rate'." How the Council has done this is opaque. Until we fully understand the source of the information used by the Council and how it was obtained, it is impossible for us to formulate a definitive response which addresses the accuracy of the information the Council has used and its relevance to the costs of delivering care in North Tyneside.
- 2) The rationale for the Council's exclusion of 1:1 care costs is unclear, particularly if (as the Council states) these costs can be identified. What is also unclear, is whether the Council's reference to 1:1 includes the costs incurred by providers in their delivery of additional support which falls outside that which it would be reasonable to expect them to provide within the standard fee rates being proposed. There are many circumstances where care providers have to employ additional staff to meet these

additional care needs, but where those needs are not continuous over the course of a day and which do not therefore create a need for 1:1 care. Nonetheless, they do give rise to a considerable additional cost to providers. **Within 10 working days of the submission of this response** please clarify these matters and what provisions the Council proposes to address these costs for providers and to ensure that care provision remains person centric and not arbitrary.

- 3) As is evidenced within the Cost of Care report produced by the NTCHOA and as one would rationally expect, there is a clear increased cost in the provision of social care services to those individuals who require nursing care; this is highlighted by the increased care hours needed for this category of resident. The Council assumption on page 13 of the Pricing Strategy is incorrect. These costs need to be taken into account. As in the case of dementia (see 4) below), a failure by the Council to do so, discriminates (both directly and by association) against this category of individuals.
- 4) The CFC tool is only used for residential care only. It is unclear why, particularly if the information is available to the Council, that it has not made any provision for the actual costs for dementia care; rather than just looking to preserve the present differential, on the assumption that it bears an accurate reflection of the additional costs of dementia care provision? The discriminatory and associative discriminatory effects of this are deeply concerning. As is evidenced within the Cost of Care produced by NTCHOA and as one would rationally expect, there is a clear additional cost in the provision of dementia services which exceeds the present differential.
- 5) Within Appendix 4 and 5 of the Council's Pricing Strategy, the Council provides a summary only of how the CFC model is calculated and a breakdown of the costs are given. However, and as we have referred above, these costs do not accurately nor rationally reflect the costs of care within North Tyneside. As we have also said above, we cannot fully set out the reasons for this without the Council first providing us with the further information we are asking for. Subject to this caveat and doing the best we can with the limited information that has been provided, we summarise what appears to be the major variances between the Council's stated position regarding the costs of care in North Tyneside and the actual costs as evidence by NTCHOA within its Costs of Care report:
 - (i.) Staffing costs
 - a. Other Care – Support Staff – The value for other staff is £19.93 in the CFC costings while the NTCHOA's report shows a cost of £69.12 for chefs (£14.94), kitchen/catering assistants (£12.66), domestics (£18.05), laundry assistants (£13.85) and other staff (£7.30). The values in the 2016 L&B report show £85.66 (appendix 2 – pricing Strategy) and the 2016 Adass report has a value allocated of £46.00 (appendix 3 – Pricing Strategy), both of which are before inflating to 2019 costs. Plainly, it is not possible to cover the costs of support staff with a cost of £19.93 per week
 - b. Agency Costs – There is no allowance for agency costs within the model. The use of agency is a well-documented, very real and unavoidable cost pressure on providers.
 - (ii.) Maintenance of capital expenditure – The Council has not made any allowance for the maintenance of capital expenditure. This is of further impact in the long term if there

are no new entrants to the market as the overall age of care homes will increase. On page 17 of the pricing strategy the Council states it “has a sufficient level of care homes and does not need new provision”.

(iii.) ROCE – The method used for calculating the ROCE is clearly insufficient in its results and does not cover the costs of rental or commercial loans within North Tyneside. This is evidenced as follows:

- a. Rental Costs – The actual care home rental costs within NTCHOA’s costings are £121.36. This represents 8 care homes and leaves a deficit of £57.38 (£121.36 - £63.98).
- b. Capital Costs (Property Costs) – The use of house prices (page 25 – Strategy report) to base ROCE is irrational and clearly does not represent the actual capital costs. From our calculations the capital cost per bed, using the CFC method, would be in the range of £25,000 to £30,000 per bed. The current build cost (including equipment purchase) of a residential care home in North Tyneside is £71,760 (BCIS). The capital value of a bed in North Tyneside in October 2006 (GLP report commissioned by North Tyneside Council) was £38,579 when there were 46 care homes in the North Tyneside area. There are now only 31 homes in North Tyneside with a higher GLP rating (mostly grade 1 and grade 2 homes).
- c. Interest – We have data from providers regarding loans and interest rates and although it is difficult to compare figures due to differing capital, term and interest rates, we can confirm that interest and loan payments are in excess of the proposed ROCE for most providers with commercial loans. It should be noted that although Four Seasons Health Care did not take part in NTCHOA’s Cost of Care, their interest rates payable are way in excess of any other provider in North Tyneside. This is information that NTCHOA has been able to obtain from FSHC public company accounts.
- d. Taxation – The capital repayment of debt is after taxation. There is no reference to taxation within the CFC model. Therefore, we can only assume no allowance has been made for taxation.
- e. Taking into account the actual costs of rent and loans, then the ROCE is insufficient to cover these costs, let alone any profit/return on equity, which is an essential element for the sustainability of any care home.

30. Given the above, it is evident even on the limited detail that has been supplied, that the Council’s proposals have not been formulated on accurate information, nor have they been formulated rationally.

31. It is regrettable that the Council did not agree to our previous proposal to address the further information we need. We hope that the Council will now do so and agree to meet with NTCHOA representatives so that we can work through and gain an understanding of the figures and approach the Council has taken in reaching what are ill-informed proposals. To this end, we note and refer to the Council’s stated intention on p.5 of the Pricing Strategy to want to work collaboratively with the sector.

Consultation Q2

‘The draft Pricing Schedule links the cost of dementia/EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate.’

32. We refer to and repeat our comments at paragraph 29, 4) above under ‘Consultation Q1’.
33. The approach proposed by the Council (which is to simply preserve the present differential) is irrational, given the Council’s acceptance of the need to identify actual care costs. Why stop short of calculating the costs of dementia care when it is an identifiable cost and a stand-alone category of care for a large proportion of individuals with often complex care needs? If the Council has (as it claims) collected information from 30 homes, why has it not obtained any costings for this category of care?
34. The proposed fees rates, as set out on page 15 of the pricing strategy, have the following differential to general care:
- | | |
|---------|--------|
| Grade 1 | £21.85 |
| Grade 2 | £20.51 |
| Grade 3 | £19.22 |
| Grade 4 | £18.14 |
35. The actual differential based on actual costs, as evidenced within NTCHOA’s Cost of Care report is £76.89. Patently, the Council’s proposal is not sufficient, nor sustainable.
36. The Council’s proposal assumes a differential in care hours of approximately 2 hours. As evidenced by the Cost of Care report, the actual differential in number of care hours is 7.21.
37. Patently, the Council’s approach is not appropriate. The correct costs and the amount required is set out within the Cost of Care report.

Consultation Q3

‘As part of the draft Pricing Schedule, the Authority proposes to review the current quality monitoring tool for care homes. It is proposed that this will include consideration of the home’s latest CQC rating and that this will be fed into the home’s overall quality score which informs the home’s overall grade in the Proposed Pricing Strategy. It is the Authority’s view that this methodology will have a positive impact on the quality of care delivered in North Tyneside – do you agree? If not, why?’

38. The use of CQC ratings is not suitable method for use within the quality monitoring tool for the following reasons:

- 1) The Council is aware of the improvements (page 16/17 Pricing Strategy) that providers have made to improve the environment within their care home. This was the result of major investment by providers as a consequence of their reliance on the existing pricing structure. It is wholly unreasonable for the Council to now change its position, now that the investment has been made. Will the Council consider reimbursing the investment made to improve the grading?
- 2) The CQC rating may not change for close to three years. As one would reasonably expect, a care provider will respond to and correct any issues identified by the CQC. This could well and most likely would involve cost on the part of the provider. Although the CQC may not return to undertake a further inspection for 3 years, the service and the costs of the service, closely following the CQC inspection and in any event within that 3 year period, will improve/increase. Were the Council to slavishly link its costs to the CQC rating, it is not tracking the true costs of the service. Rather, the approach would be punitive in financial terms and particularly unjust for a provider whose care home rating may be reduced for a technical, rather than an outcome driven reason.
- 3) The Council has not undertaken any enquiry into whether there it is cheaper for a provider to provide care in a care home with a lower CQC rating. It is the position of NTCHOA that one cannot assume there to be such a cost saving, particularly as the reasons for different ratings will often not be costs driven. Indeed, there is a strong case to be said, that a provider with a lower CQC rating may well require further investment to improve its rating; and where services that see their CQC rating falls, will not see any savings in their costs. Where does the Council believe there to be cost differences between CQC ratings and how are those differences prorated as against the proposed fees?
- 4) It is extremely difficult to obtain an outstanding rating and only HC One has achieved that in the North Tyneside area and they cater for private clients and very little contracting with the Council.
- 5) The overall impact will be an automatic decrease in scoring as most of the care homes in the area have now improved there environmental rating to the highest possible grading and will now lose 5% scoring as a minimum. This is further underscored by a report by Scott Woodhouse (North Tyneside Council) in the Council document “Budget Business Cases” dated 1 February 2018 (pages 5 & 6) where it is stated that this new method of quality monitoring will save the Council £300k. It is not sustainable to take another £300,000 out of the system.

- 6) In addition to providers losing points by changing GLP environmental gradings to CQC gradings, the Council has decided to increase the score needed to obtain a grade 1 quality banding from 80% (page 16 pricing strategy) to 85% (page 18 pricing strategy). There is no explanation (let alone a rational explanation) for this change and is grossly unreasonable and unfair.

Consultation Q4

'It is proposed that following this Consultation, the Authority will be in a position to make a decision in relation to the care costs for the year 2019/20 and also to decide upon a methodology for increasing those fees over the following three years to 2022/23.

The Proposed Pricing Strategy proposes two methods for price increases over the years detailed above. They are:

- (a) Percentage increase on baseline; or**
- (b) An annual re-run of the agreed funding model?**

Please confirm which of the above models you believe will more accurately address the increasing costs of delivering care in North Tyneside and explain why?'

39. It is important to clarify precisely what the Council's is proposing as it is presently unclear. The Council's wording of the second method on page 10 of the consultation document is:

"(b) An annual re-run of the agreed funding model"

40. Does this mean an agreed funding model with providers or the CFC funding model; the latter of which is not (for the reasons set out within this response paper) agreed? The Council needs to clarify this, along with the following:

- 1) Dependency – Will both options cover any increased dependency of residents? The Council has already noted that residents are becoming more dependent with greater needs (after being kept at home for as long as possible).
- 2) How would either model account for increased loan interest rates? The Council's own budgetary model has a projection of interest increasing rapidly over the next few years.
- 3) How would either model make provision for increases in agency costs?
- 4) Is the Council proposing that the first re-run of the model (which as the Council expresses on p.18 of the Pricing Strategy, is its preferred option), will take place in March 2020?

41. So that we can fully consider and respond to the consultation question, **we ask that the Council clarifies then above matters within 10 working days of receipt of this response paper.** Subject to the Council's clarification of these matters and on the assumption that they are adequately and properly provided for within both proposals, we see no particular difficulty with either option.

Consultation Q5

‘The Authority is proposing (for new packages and placement costs) a new 1:1 hourly rate where additional support is required. The Proposed Pricing Strategy proposes what this might be in 2019/20, and how the Authority has arrived at this proposal. In your view, does this take account of the costs of providing additional 1:1 support in North Tyneside?’

42. We refer to and repeat what we have already said at paragraph 29, 2) under ‘Consultation Q1’.
43. Further, we do not believe the Council has covered all the costs associated with providing additional 1:1 care. The following should be included:
 - 1) Full agency costs – If it is not possible for the home to provide the additional support and agency is needed, then the full cost of the agency should be reimbursed. The additional 20% for agency is not sufficient and from our recent data collection, the hourly charge for a carer in March 2019 (before LW impact) ranged from £13.95 to £16.44.
 - 2) Management time – A considerable amount of senior and management time is used for advising and supervising.
 - 3) Equipment costs/repairs and maintenance – Equipment and R&M costs are becoming more common particular for those who are at end of life or those with more challenging behaviour.
44. The Council has not set out any detail as to how a request for either additional support or 1:1 will be determined in the event of a disagreement between the Council and the provider regarding whether or not it is needed and if so, in what quantity. This needs to be clarified and **we ask that the Council does so within 10 working days of its receipt of this response paper.** In providing this clarification, the Council needs to respect and understand that it is the care provider who has the statutory responsibility to assess and meet care needs. If the provider assesses a need for 1:1 or additional support, they are required to provide it, otherwise they will be acting in default of their regulatory obligations.

Consultation Q6

‘The Authority is seeking to put in place a new three year contract (joint with the Clinical Commissioning Group) from April 2019, covering the areas set out in this Proposed Pricing Strategy document. Are there any other areas you believe should be included in the new contract? If you do make suggestions, please explain your reasons for making each suggestion.’

45. We refer back to and repeat what we have said at paragraph numbered 10 of this response paper.
46. The matter of contracts is technical, and we need to liaise with the Council over the logistics of addressing the new proposed contract.
47. In the meantime, we ask for your confirmation as to whether or not the Council has undertaken an assessment as to whether the new contract has any new cost implications for providers. If so, what are they and in what amounts? **We ask that you provide this confirmation within 10 working days of the date of your receipt of this response paper.**
48. Finally and as regards CHC (page 2 Pricing Strategy) – We refer to our comments under paragraphs 16 and 17 of this response paper. If the Council is proposing that the new contract is a jointly commissioning contract with the CCG, then the issue of CHC and its costs becomes a relevant matter. We simply flag this up at this stage and reserve our position on this pending our engagement with the Council regarding the new contract.

Consultation Q7

‘Are there any other areas the Authority should consider as part of the Pricing Strategy?’

49. There are a number of additional matters which should be taken into account by the Council, which we summarise in brief below. It may be that other matters arise once we have the Council’s responses to the further information that we have requested herein.

- 1) Reference is made on p.3 of the Pricing Strategy to NTCHOA undertaking a cost of care analysis to identify cost indices. This is incorrect. The analysis was not limited in this way; it was just cost indices we agreed upon.
- 2) Private market – this is severely impacted with introduction of new home as identified by Council (page 7 Pricing Strategy) and as the Council identifies, it is a reducing market. This impacts our previous reference herein to cross subsidisation from this market.
- 3) Effective and efficient – on Page 14 of the Pricing Strategy the Council state that CFC “takes account of efficient and effective operation of care”, but does not explain how. Please provide this explanation within 10 working days of your receipt of this response paper.
- 4) New entrants to the market - There are no new entrants to the Market. There is one home due to be built in late 2020 but the Council has recognised in its pricing strategy report (page 7) that this will cater for private residents only. It is expected that this care home will take private clients from other care homes and this will make it difficult for those homes to remain sustainable. This has also been noted on the Council Pricing Strategy on page 7. It is clear when we look at the cost of care that private funding is essential to remain sustainable.
- 5) Care home closures - One home has closed with a total of 30 beds. See below Roseberry Care Centres.
- 6) There are a number of homes in the North Tyneside area which raise concerns within their public documents and these include:
 - 1) Four Seasons Healthcare (FSHC) - It is well documented that FSHC has financial difficulties and this is referenced in the Council Pricing Strategy on page 7. Four Seasons have four care homes in North Tyneside with a total 246 beds.
 - 2) Roseberry Care Centres (RCC) - Roseberry Care Centres closed Springfield Court and still has one care home remaining in North Tyneside. RCC care homes are predominantly in the North East. I attach the accounts for RCC dated 31 December 2018. In particular, the following is noted in the accounts:
 - i) Page 4 – Going Concern Note – This note makes reference to the liabilities of the company and to the need to have reduced rents

- ii) Page 4 – Occupancy – The occupancy of the company is 87%. This is the same as the occupancy currently in North Tyneside according to the Council figures on page 6 of the pricing strategy
- iii) Page 4 – Average weekly fee rate is £612. This is in excess North Tyneside Council rates
- iv) Page 13 – Loss for the financial year – The company continues to make a loss year on year.

All of the above indicate that at current North Tyneside occupancy and rates, it is just not sustainable.

- 7) Care homes for sale - Through searching for care home sales we can see that there at least 2 care homes for sale with a total of 65 beds. We do understand that there are more care homes for sale but are unable to identify them. The Care Homes for sale are local providers and in our opinion, not able to be subsidised by other care homes in the business.
- 8) Care home quality - The Council have stated that there is an overall improvement in the CQC ratings and that this is a consequence of inspections undertaken by CQC. We would make the following points:
 - i) Closure of Home – The home which closed during the year was classed by CQC as Requires Improvement. By removing this home, the % of homes in RI would automatically decrease.
 - ii) Re-Grading – We understand that one provider (Prestwick Care) has had its home regraded after legal discussions with CQC and this was not due to an inspection.
 - iii) New Owners – New owners of one nursing home have invested a considerable amount of start-up capital in order to make improvements necessary to improve CQC grading.

Taking the above into account, we don't believe that quality has improved much at all. It is important to note that it is extremely difficult to achieve an outstanding CQC grading.

NORTH TYNESIDE CARE HOME OWNERS ASSOCIATION

24 September 2019

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COST OF CARE

For Older People in Residential Care Homes
(With and Without Nursing) in the
Metropolitan Borough Council of North Tyneside

March 2019

Costing Care Limited

**Cost of Care for Older People in residential Care Homes With or Without Nursing in the
Metropolitan Borough of North Tyneside**

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INTRODUCTION

The purpose of this report is to calculate the cost of care in residential care homes for older people, with or without nursing, in the Council Borough of North Tyneside (Council). It was requested by North Tyneside Care Home Owners Association (NTCHOA) who have agreed to supply the costs of care to the Council. We have also been instructed to supply an income analysis of the area. The methodology used for processing this report has been agreed with North Tyneside Care Home Owners Association (NTCHOA). We have circulated this report to NTCHOA and would seek both provider and Council comments before finalising.

We have based the report on actual costs. Any assumptions used will be identified under the separate cost headings. We have used the following cost headings:

Heading	Source
Occupancy	Survey of Providers for Week Ending 24 th March 2019
Number of Beds	Survey of Providers for Week Ending 24 th March 2019
Staff Costs	Survey of Providers for Week Ending 24 th March 2019
Other Operating Costs	Survey of Providers for Last Completed Financial Year
Capital Expenditure Costs	Survey of Providers for Last Completed Financial Year
Property Rental Costs	Survey of Providers for Last Completed Financial Year
Financing Costs & RoR	Survey of Providers, BCIS Build Costs & Closed Care Home Sale Values
Weekly Income	Survey of Providers for Week Ending 24 th March 2019

The following number of care homes supplied full data:

Number of Providers	12
Number of Care Homes	18
Number of Care Homes Without Nursing	10
Number of Care Homes With Nursing	8

Although the data has been sense checked, we have not undertaken an audit. We have excluded a limited amount of data (in particular HC One homes), which deviated significantly from the rest of the data supplied and was not supported by further information. The impact of excluding this data was a reduction in costs.

COST HEADINGS

Occupancy

The results are based on the following number of registered and occupied beds as at week ending 24th March 2019:

Type of Care	Registered Beds	Occupied Beds	% Occupied
Residential	301	274	91.03%
Residential with Dementia	287	248	86.41%
Nursing	98	89	90.82%
Nursing with Dementia	62	58	93.55%
Continuing Healthcare	64	64	100.00%
Totals	812	733	90.27%

Staff Costs

We choose one week to collect the staffing costs as it is not possible for providers to accurately split hours for different types of care over a longer period such as a year. Changes in dependency and occupancy particularly make collecting staffing data over a year not possible.

Staff Hours

The weighted average staffing hours per occupied bed per week are summarised as follows:

Role	Residential	Residential Dementia	Nursing	Nursing Dementia	CHC
Nurse	n/a	n/a	6.53	8.51	8.63
Senior Care Assistants	4.87	7.28	4.36	3.81	6.00
Care Assistants	14.56	19.28	20.39	21.22	22.46
Chefs/Cooks	1.39	1.39	1.39	1.39	1.39
Kitchen/Catering Assistants	1.30	1.30	1.30	1.30	1.30
Domestics*	1.84	1.84	1.84	1.84	1.84
Laundry Assistants*	1.44	1.44	1.44	1.44	1.44
Management	1.08	1.08	1.08	1.08	1.08
Deputy Manager	0.76	0.76	0.00	0.00	0.00
Administration and Reception	0.93	0.93	0.93	0.93	0.93
Other Staff (including handyman)	0.72	0.72	0.72	0.72	0.72
Activities	1.14	1.14	1.14	1.14	1.14
Nurse – Agency	n/a	n/a	1.32	1.32	1.32
Care Assistant - Agency	2.68	2.68	0.00	0.00	0.00

*Dual roles – Laundry assistants undertake domestic work also

Using the above, the total care and nurse hours per resident per week is as follows:

Role	Residential	Residential Dementia	Nursing	Nursing Dementia	CHC
Nurse	n/a	n/a	6.53	8.51	8.63
Nurse - Agency	n/a	n/a	1.32	1.32	1.32
Total Nurse Hours	n/a	n/a	7.85	9.83	9.95

Role	Residential	Residential Dementia	Nursing	Nursing Dementia	CHC
Deputy Manager	0.76	0.76	0.00	0.00	0.00
Senior Care	4.87	7.28	4.36	3.81	6.00
Care Assistants	14.56	19.28	20.39	21.22	22.46
Activities	1.14	1.14	1.14	1.14	1.14
Care Assistants - Agency	2.68	2.68	0.00	0.00	0.00
Total Care Hours	23.50	31.14	25.89	26.17	29.60

Staff Pay Rates

The weighted average staff pay rates as per the data supplied, were as follows:

Role	Residential	Residential Dementia	Nursing	Nursing Dementia	CHC
Nurse	n/a	n/a	16.59	16.61	16.63
Senior Care Assistants	8.68	8.94	8.40	8.37	8.41
Care Assistants	8.05	8.16	7.79	7.77	7.80
Chefs/Cooks	8.62	8.62	8.62	8.62	8.62
Kitchen/Catering Assistants	7.97	7.97	7.97	7.97	7.97
Domestics	8.05	8.05	8.05	8.05	8.05
Laundry Assistants	7.91	7.91	7.91	7.91	7.91
Management	18.95	18.95	18.95	18.95	18.95
Deputy Manager	13.55	13.55	13.55	13.55	13.55
Administration and Reception	9.05	9.05	9.05	9.05	9.05
Other Staff (including handyman)	8.36	8.36	8.36	8.36	8.36
Activities	8.72	8.72	8.72	8.72	8.72
Nurse – Agency	26.03	26.03	26.03	26.03	26.03
Care Assistant - Agency	13.84	13.84	13.84	13.84	13.84

Employee On-costs

The following assumptions have been made regarding employee on-costs:

On-cost	Manager	Nurse	All other Staff
Holiday (WTD)	12.0%	12.0%	12.0%
Employers NI	9.5%	9.0%	7.8%
Training & Sick Pay	1.0%	1.0%	1.0%

Pension Costs

Actual pension costs were supplied for the week and allocated across all care types.

Other Operating Costs

The data supplied for other operating costs covered the last financial year of the provider. It was necessary to collect the data over a year as it was not possible to collect it over one week.

Year End Dates

The year-end dates ranged from March 18 up to March 19. We have not applied any CPI uplift to bring all costs up to March 19. If we had applied a CPI uplift, then costs would not increase costs by more than £1. Coupled with the fact that many providers are on fixed price contracts, we did not feel it was necessary for the uplift.

Medical Supplies

All homes, not just homes with nursing, show a cost against medical supplies for the year. We have allocated medical supplies across all types of care, but do recognise that providers with nursing are showing a greater cost than those without nursing. We recommend that further analysis of this cost be undertaken.

Other Non-Staff Costs

Most of the cost headings under other operating costs are self-explanatory except for other non-staff costs. Included within this cost heading are the following costs:

- Accountancy
- Legal
- Resident Entertainment
- Motor & Travel
- Bank Charges
- Subscriptions
- Uniforms

Maintenance of Capital Expenditure

The following costs have been included under this cost heading:

- Repairs to land and buildings
- Purchase of vehicles (specific to home)
- Large Equipment/Fixtures Purchases
- New Door and Alarm Systems
- CCTV

Property Rental Costs – RoR and Financing Costs

We have provided two scenarios for the cost of capital under appendix 1 and appendix 2.

Appendix 1 – Property Rental Costs

Some homes rent their property and we have used the actual weighted average cost for these homes.

Appendix 2 – RoR and Financing Costs

The second scenario uses actual new build/conversion costs and actual interest rates. The methodology is as follows:

Capital Value Per Bed:

Build/conversion Cost Using RICS BCIS	X
Initial Equipment Cost	X
Less Residual Value of Land/Property	<u>(X)</u>
Capital value used for Financing	<u><u>X</u></u>

We have assumed that the residual value is equal to the initial equity invested. This provides the following debt to equity ratios/values:

Residential:	82/18	£58,727/£13,033
Nursing:	83/17	£61,727/£13,033

The residual values used are those care homes which are currently for sale and closed.

The debt rate used is 4.56% which was taken from the provider surveys. The debt repayment (capital cost) is repaid over a term of 20 years and is a post taxation cost. We have used a taxation rate of 19% for this exercise. The final values have been adjusted for the current occupancy.

We have not included any return for the equity invested and this should form part of the providers return/profit.

PROVIDER PROFIT

No profit has been included within the costings. However, typical profit margins from various sources indicate a range of 6-10% on costs. For your information, we have provided a table at appendix 3 showing the typical profit margin percentages and the impact they would have on these costings.

INCOME ANALYSIS

We have collected the weekly fee income for week ending 24th March through the provider surveys. This income is displayed in Appendix 4. The following income is included under each heading:

Council/CCG Weighted Average Fee Income: Council fees, CCG fees and outside area council fees.

Private Fees: Income from private residents.

Third Party Contributions: Income from a third party which pays a top-up to Council fees. The weighted average fee is based on the number of beds that pay top-up only and the average would be reduced if we allocated this across all beds.

Total Weighted Average: We have used the total income (inc. TPC) for each type of care and divided this by the total number of beds

We have compared weekly fees against the weekly costs and it should be noted that profit has been excluded from this part of the exercise.

CONCLUSIONS AND FURTHER WORK

The nature and make up of care homes often makes it difficult to obtain average cost of care. Varying levels of occupancy and types of care will always impact on care home costs over a period of time. However, we have minimised the number of assumptions used and based the costs on actual figures. We believe that the figures given in this report reflect the actual costs of care of the homes surveyed.

We do however recommend some further work as follows:

- 1) Review medical costs further. The report has allocated these costs evenly across all homes but it did appear that nursing homes had more heavily weighted medical costs.

- 2) Consider capital approach. We have given two scenarios which reflect the capital costs. These should be discussed further and a method agreed upon.
- 3) 2019/20 uplift. The costs of care reflect a cost for the year 2018/19 and an exercise should be undertaken to uplift these costs if this report is to be used for 2019/20 year. We have set the costs of care out in this report which allow these costs to be uplifted correctly.

Please note that we have prepared this report for the sole use of NTCHOA.

Keith A Gray FCCA
Costing Care Limited

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**CNE NORTH TYNESIDE COST OF CARE
BASED ON PROPERTY RENTAL**

	NORTH TYNESIDE CALCULATED RATES PER BED PER WEEK				
	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC
Staff Costs					
Nursing			£133.37	£174.22	£176.75
Senior Care Assistants	£64.00	£91.78	£44.61	£38.86	£61.51
Care Assistants (Inc day Activities)	£154.90	£204.01	£205.67	£213.01	£225.64
Chefs/cooks	£14.60	£14.60	£14.60	£14.60	£14.60
Kitchen/Catering Assistants	£12.66	£12.66	£12.66	£12.66	£12.66
Domestics	£18.05	£18.05	£18.05	£18.05	£18.05
Laundry Assistants	£13.85	£13.85	£13.85	£13.85	£13.85
Management	£26.07	£26.07	£26.07	£26.07	£26.07
Administration & Reception Staff	£10.21	£10.21	£10.21	£10.21	£10.21
Other Staff (Including Handyman)	£7.30	£7.30	£7.30	£7.30	£7.30
Pension Costs	£8.31	£8.31	£8.31	£8.31	£8.31
Agency Costs					
Nurses	£0.00	£0.00	£34.47	£34.47	£34.47
Care Assistants	£37.03	£37.03	£0.00	£0.00	£0.00
Other Staff	£0.00	£0.00	£0.00	£0.00	£0.00
Total Staffing Costs	£366.98	£443.87	£529.17	£571.61	£609.42
Other Operating Costs					
Food	£26.98	£26.98	£26.98	£26.98	£26.98
Utilities & Waste Disposal	£22.00	£22.00	£22.00	£22.00	£22.00
Cleaning Materials & Equipment	£8.41	£8.41	£8.41	£8.41	£8.41
Insurance	£4.76	£4.76	£4.76	£4.76	£4.76
Registration Fees	£3.24	£3.24	£3.24	£3.24	£3.24
Recruitment & DBS Costs	£1.29	£1.29	£1.29	£1.29	£1.29
Direct Training Costs	£4.01	£4.01	£4.01	£4.01	£4.01
Repairs, Maintenance Small Renewals	£20.04	£20.04	£20.04	£20.04	£20.04
Handyperson and Gardening	£1.19	£1.19	£1.19	£1.19	£1.19
Medical Supplies	£2.65	£2.65	£2.65	£2.65	£2.65
Administration Costs	£3.47	£3.47	£3.47	£3.47	£3.47
Other Non-Staff Costs	£4.48	£4.48	£4.48	£4.48	£4.48
HO Recharges	£34.50	£34.50	£34.50	£34.50	£34.50
Total Operating Costs	£137.02	£137.02	£137.02	£137.02	£137.02
Maintenance of Capital Expenditure					
Maintenance of Capital Expenditure	£14.36	£14.36	£14.36	£14.36	£14.36
Total Maintenance of Capital Expenditure	£14.36	£14.36	£14.36	£14.36	£14.36
Sub Total Before Care Home Rental Costs	£518.36	£595.25	£680.55	£722.99	£760.80
Care Home Rental Costs	£121.36	£121.36	£121.36	£121.36	£121.36
Sub Total	£121.36	£121.36	£121.36	£121.36	£121.36
Total Weekly Cost	£639.72	£716.61	£801.91	£844.35	£882.16

**CNE NORTH TYNESIDE COST OF CARE
BASED ON BUILD COSTS**

	NORTH TYNESIDE CALCULATED RATES PER BED PER WEEK				
	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC
Staff Costs					
Nursing			£133.37	£174.22	£176.75
Senior Care Assistants	£64.00	£91.78	£44.61	£38.86	£61.51
Care Assistants (Inc day Activities)	£154.90	£204.01	£205.67	£213.01	£225.64
Chefs/cooks	£14.60	£14.60	£14.60	£14.60	£14.60
Kitchen/Catering Assistants	£12.66	£12.66	£12.66	£12.66	£12.66
Domestics	£18.05	£18.05	£18.05	£18.05	£18.05
Laundry Assistants	£13.85	£13.85	£13.85	£13.85	£13.85
Management	£26.07	£26.07	£26.07	£26.07	£26.07
Administration & Reception Staff	£10.21	£10.21	£10.21	£10.21	£10.21
Other Staff (Including Handyman)	£7.30	£7.30	£7.30	£7.30	£7.30
Pension Costs	£8.31	£8.31	£8.31	£8.31	£8.31
Agency Costs					
Nurses	£0.00	£0.00	£34.47	£34.47	£34.47
Care Assistants	£37.03	£37.03	£0.00	£0.00	£0.00
Other Staff	£0.00	£0.00	£0.00	£0.00	£0.00
Total Staffing Costs	£366.98	£443.87	£529.17	£571.61	£609.42
Other Operating Costs					
Food	£26.98	£26.98	£26.98	£26.98	£26.98
Utilities & Waste Disposal	£22.00	£22.00	£22.00	£22.00	£22.00
Cleaning Materials & Equipment	£8.41	£8.41	£8.41	£8.41	£8.41
Insurance	£4.76	£4.76	£4.76	£4.76	£4.76
Registration Fees	£3.24	£3.24	£3.24	£3.24	£3.24
Recruitment & DBS Costs	£1.29	£1.29	£1.29	£1.29	£1.29
Direct Training Costs	£4.01	£4.01	£4.01	£4.01	£4.01
Repairs, Maintenance Small Renewals	£20.04	£20.04	£20.04	£20.04	£20.04
Handyperson and Gardening	£1.19	£1.19	£1.19	£1.19	£1.19
Medical Supplies	£2.65	£2.65	£2.65	£2.65	£2.65
Administration Costs	£3.47	£3.47	£3.47	£3.47	£3.47
Other Non-Staff Costs	£4.48	£4.48	£4.48	£4.48	£4.48
HO Recharges	£34.50	£34.50	£34.50	£34.50	£34.50
Total Operating Costs	£137.02	£137.02	£137.02	£137.02	£137.02
Maintenance of Capital Expenditure					
Maintenance of Capital Expenditure	£14.36	£14.36	£14.36	£14.36	£14.36
Total Maintenance of Capital Expenditure	£14.36	£14.36	£14.36	£14.36	£14.36
Sub Total Before ROR & Financing Cost	£518.36	£595.25	£680.55	£722.99	£760.80
Capital Costs (debt repayment)	£56.32	£56.32	£59.19	£59.19	£59.19
Taxation	£13.38	£13.38	£14.06	£14.06	£14.06
Debt Financing Cost	£30.70	£30.70	£32.27	£32.27	£32.27
Sub Total	£100.40	£100.40	£105.52	£105.52	£105.52
Total Weekly Cost	£618.76	£695.65	£786.07	£828.51	£866.32

**CNE NORTH TYNESIDE COST OF CARE
PROFIT ANALYSIS**

CALCULATED RATES BASED ON APPENDIX 1

	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC
Total Weekly Cost Per Bed Per Week	£639.72	£716.61	£801.91	£844.35	£882.16
Profit Margin at 6%	£38.38	£43.00	£48.11	£50.66	£52.93
Profit Margin at 7%	£44.78	£50.16	£56.13	£59.10	£61.75
Profit Margin at 8%	£51.18	£57.33	£64.15	£67.55	£70.57
Profit Margin at 9%	£57.57	£64.49	£72.17	£75.99	£79.39
Profit Margin at 10%	£63.97	£71.66	£80.19	£84.44	£88.22
Expected Fee - Profit Margin at 6%	£678.10	£759.61	£850.02	£895.01	£935.09
Expected Fee - Profit Margin at 7%	£684.50	£766.77	£858.04	£903.45	£943.91
Expected Fee - Profit Margin at 8%	£690.90	£773.94	£866.06	£911.90	£952.73
Expected Fee - Profit Margin at 9%	£697.29	£781.10	£874.08	£920.34	£961.55
Expected Fee - Profit Margin at 10%	£703.69	£788.27	£882.10	£928.79	£970.38

CALCULATED RATES BASED ON APPENDIX 2

	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC
Total Weekly Cost Per Bed Per Week	£618.76	£695.65	£786.07	£828.51	£866.32
Profit Margin at 6%	£37.13	£41.74	£47.16	£49.71	£51.98
Profit Margin at 7%	£43.31	£48.70	£55.02	£58.00	£60.64
Profit Margin at 8%	£49.50	£55.65	£62.89	£66.28	£69.31
Profit Margin at 9%	£55.69	£62.61	£70.75	£74.57	£77.97
Profit Margin at 10%	£61.88	£69.57	£78.61	£82.85	£86.63
Expected Fee - Profit Margin at 6%	£655.89	£737.39	£833.23	£878.22	£918.30
Expected Fee - Profit Margin at 7%	£662.07	£744.35	£841.09	£886.51	£926.96
Expected Fee - Profit Margin at 8%	£668.26	£751.30	£848.96	£894.79	£935.63
Expected Fee - Profit Margin at 9%	£674.45	£758.26	£856.82	£903.08	£944.29
Expected Fee - Profit Margin at 10%	£680.64	£765.22	£864.68	£911.36	£952.95

**CNE NORTH TYNESIDE COST OF CARE
WEEKLY FEE INCOME ANALYSIS**

	WEIGHTED AVERAGE WEEKLY FEE RATES					
	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC	ALL
Council/CCG Weighted Average Fee Income	£557.38	£598.57	£728.08	£758.35	£806.47	£630.75
Private Residents Weighted Average Fee Income	£709.08	£816.15	£940.87	£917.51	n/a	£779.31
Third Party Contributions	£19.91	£77.68	£23.90	n/a	n/a	£41.49
Total Weighted Average Fee Income	£614.08	£667.85	£784.54	£797.21	£807.33	£678.44

	WEEKLY FEE INCOME COMPARED TO WEEKLY COST					
	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING	CHC	ALL
APPENDIX 1 - PROPERTY RENTAL						
Total Weighted Average Fee Income	£614.08	£667.85	£784.54	£797.21	£807.33	£678.44
Cost of Care - Appendix 1	£639.72	£716.61	£801.91	£844.35	£882.16	£722.79
Weekly Fee Income Above/(Under) Cost	(25.64)	(48.76)	(17.37)	(47.14)	(74.83)	(44.35)
APPENDIX 2 - BUILD COSTS						
Total Weighted Average Fee Income	£614.08	£667.85	£784.54	£797.21	£807.33	£678.44
Cost of Care - Appendix 2	£618.76	£695.65	£786.07	£828.51	£866.32	£703.30
Weekly Fee Income Above/(Under) Cost	(4.68)	(27.80)	(1.53)	(31.30)	(58.99)	(24.86)

	COUNCIL RATES COMPARED TO WEEKLY COST			
	NON DEMENTIA	DEMENTIA	NON DEMENTIA NURSING	DEMENTIA NURSING
APPENDIX 1 - PROPERTY RENTAL				
Council Weekly Fee Rate (Inc FNC) - Top Rate G1	£564.51	£584.55	£722.67	£742.71
Cost of Care - Appendix 1	£639.72	£716.61	£801.91	£844.35
Weekly Fee Income Above/(Under) Cost	(75.21)	(132.06)	(79.24)	(101.64)
APPENDIX 2 - BUILD COSTS				
Council Weekly Fee Rate (Inc FNC) - Top Rate G1	£564.51	£584.55	£722.67	£742.71
Cost of Care - Appendix 2	£618.76	£695.65	£786.07	£828.51
Weekly Fee Income Above/(Under) Cost	(54.25)	(111.10)	(63.40)	(85.80)

Four Seasons Healthcare Response

Question 1: *Please consider the Proposed Pricing Strategy and in particular the information used by the Authority in order to arrive at the potential rates. Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why.*

Response:

The value of the costs you have used to not reflect our actual costs of providing care. Based on the proposed 2019/20 grade 1 rates, the fees for around a third of the residents you fund in our three homes would fail to cover the basic cost of care, and in all other cases fail to provide a sufficient margin to invest in the homes further. Given that not all of our homes are grade 1, the actual fees we would receive represents a significant issue for us in terms of continuity of provision.

We also do not agree with your assumption that FNC covers all the additional costs of providing care to someone with nursing needs. As you are aware, FNC is only intended to cover the direct costs of employing registered nurses, however a typical nursing resident would have additional non-nursing care needs, including additional care staffing and equipment requirements, and so you not taken all of the costs into account.

In the longer term, even if these costs were reflective of the current situation; as your report notes, due to the council's strategy of keeping people in the community for longer, those who do move in to care homes have increasingly higher levels of need, which typically results in higher costs. Therefore you cannot be certain these costs will remain valid throughout the term of the contract and should be reviewed more regularly and prices adjusted accordingly, in addition to any simple inflationary increases.

In regards to CHC fee rates, our analysis of our costs shows that on average your differential of £60 is less than the actual differential we experience, which on average is £66. Taking into account the issues above, this means it is likely we would lose money by providing care to people with CHC-level needs.

Question 2. *The draft Pricing Schedule links the costs of dementia / EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate.*

Response:

Analysis of our costs of care for people with dementia shows the differential is greater than 3.70%, in fact typically for residential care it is 5% and for nursing care it is almost 11% higher to look after people with dementia.

When we look at typical differentials we receive nationally, the average is £40-£50, whereas your 3.70% is less than this

Whilst we don't disagree with your basic principle of adding a percentage on top of the non-dementia fee, the amount you have added is not reflective of the actual difference in costs. The figure you have suggested is low compared to both our costs and the average differential paid by other commissioners for dementia care.

Question 3. *As part of the draft Pricing Schedule, the Authority proposes to review the current quality monitoring tool for care homes. It is proposed that this will include consideration of the home's latest CQC rating and that this will be fed into the home's overall quality score which informs the home's overall grade in the Proposed Pricing Strategy. It is the Authority's view that this methodology will have a positive impact on the quality of care delivered in North Tyneside – do you agree? If not, why?*

Response:

We do welcome the use of CQC ratings to determine the grade of the home, however as a large portion of the council's inspection also focuses on the CQC Key Lines of Enquiry, wherever a home is inspected it should be able to request the council updates not only the 25% allotted to the CQC rating, but also the 60% covered by your own inspection against these same areas, with any change effective from the date of the CQC report publication. Alternatively, the council should not duplicate the work done by the CQC but assess the home directly against your contract and service specification.

However, we do not agree with the prices you are willing to pay for each grade, as against your own cost of care of £572.60, a home is not expected to provide a return unless it has a top-rated grade. That the council is willing to pay below-cost fees when it also states the provision of care homes in the market is at the right level to meet demand inevitably raises questions around your legal duties in regard to market shaping. It cannot be reasonable for a home rated by the CQC as being Good to also be expected to provide that care to the council at a loss-making fee level, especially when so much of your grading appears to cover the same areas as the CQC reporting.

Question 4. *It is proposed that following this Consultation, the Authority will be in a position to make a decision in relation to the care costs for the year 2019/20 and also to decide upon a methodology for increasing those fees over the following three years to 2022/23.*

The Proposed Pricing Strategy proposes two methods for price increases over the years detailed above. They are:

- (a) Percentage increase on baseline; or
- (b) An annual re-run of the agreed funding model?

Please confirm which of the above models you believe will more accurately address the increasing costs of delivering care in North Tyneside and explain why.

Response:

Given the 2019/20 fees are not financially viable in respect of our cost of providing care; we would find it difficult to agree to a percentage increase to the baseline as a means of increasing the price annually. If your baseline fees were accurate, option (a) may have been agreeable.

Given the baseline fees proposed are too low, option (b) is the only sensible choice.

The other advantage to option (b) is that as a result of your strategy to continue to delaying admissions to care homes, those who do move in to residential care require higher levels of resource and expertise. Inevitably this comes at a greater cost and level of risk. Since this strategy remains in force we only expect costs to increase above index-linked inflation, and we have already noted your fees are too low to give any room for these additional costs to be absorbed by us.

Question 5. *The Authority is proposing (for new packages and placement costs) a new 1:1 hourly rate where additional support is required. The Proposed Pricing Strategy proposes what this might be in 2019/20, and how the Authority has arrived at this proposal. In your view, does this take account of the costs of providing additional 1:1 support in North Tyneside?*

Response:

The rates you have suggested here are not realistic, especially in regards to the use of agency care. Whilst we invest substantial resources recruiting sufficient staff, the use of agency staffing, especially for 1:1 is unlikely to be completely avoidable.

To ensure a fairer balance of the financial risks of providing 1:1 care we would need a cost-plus pricing model, linked directly to our costs of providing this type of care.

Alternatively, we would expect the council or CCG to commission the 1:1 element separately, with either your own staff providing this care in our home, or where you utilise the services of agency staff.

Question 6. *The Authority is seeking to put in place a new three year contract (joint with the Clinical Commissioning Group) from April 2019, covering the areas set out in this Proposed Pricing Strategy document. Are there any other areas you believe should be included in the new contract? If you do make suggestions, please explain your reasons for making each suggestion.*

Response:

We have reviewed the terms of the “Agreement for the Provision of Personal Care and Nursing Care within a Care Home” and raise the following comments:

- **Data Protection:** Clause 51 states the Commissioners are the Data Controller whilst the Provider is Data Processor. This does not represent the factual or lawful reality of how personal data is used within this sort of service. Both Commissioners and Providers would need to be independent Data Controllers. We would not be able to sign a contract of this nature which names us as being a Data Processor.
- **Charges:** Clause 27.19 gives the Commissioners the right to reduce the fees paid immediately when a resident is temporary absent, even if simply attending an appointment (27.17.1.1). We would not be agreeable to signing any contract which gives you this freedom as our costs do not reduce during such periods to anywhere close to the extent the contract appears to imagine.
- **Short Term Residents:** Clause 35.2 states the CCG will not be obliged to carry out a Nursing Assessment on a Short Term Resident. For any resident you wish to place with us who has nursing needs, we need certainty the FNC will be paid from that resident’s date of admission, whether that is through an assessment or simply confirmation that FNC will be paid without such an assessment.

Question 7. *Are there any other areas the Authority should consider as part of the Pricing Strategy?*

Response:

The council's pricing strategy indicates changing needs within North Tyneside. We believe that as a provider of care home services we play a key role in supporting the council in meeting the needs of the local community.

As those requirements change the provider market should be given the opportunity to reposition itself so that it can continue to meet these. To facilitate this there needs to be much greater levels of information sharing between the council and social care providers to help the planning and effective implementation of services in the future, whether that is around staffing, technology, or commissioning models.

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IN THE ADMINISTRATIVE COURT

BETWEEN

THE QUEEN

On the application of CARE NORTH EAST

Claimant

And

NORTH TYNESIDE COUNCIL

Defendant

STATEMENT OF FACTS AND GROUNDS FOR JUDICIAL REVIEW

A. INTRODUCTION AND SUMMARY OF CLAIM

1. The Claimant is an association of care home operators who provide nearly 10,000 care home beds in the North East of England.
2. The Defendant is a local social services authority which is responsible for making care home placements in accordance with its statutory community care functions. The Defendant also has a specific statutory duty to promote the efficient and effective operation of a market for care home places. Pursuant to those duties, it must periodically determine the fees that it is willing to pay for care home placements.
3. On 15 July 2019, the Defendant published a proposed pricing strategy for care home fees and a consultation document which invited views on the proposed strategy.

4. The central proposal in the proposed pricing strategy was to pay the following fees for care home beds in 2019/20:

	Proposed weekly rates for ordinary care	Proposed weekly rates for dementia care
Grade 1	£590.57	£612.42
Grade 2	£554.35	£574.86
Grade 3	£519.38	£538.60
Grade 4	£490.24	£508.38

5. Those rates were calculated using a computer model called the CareCubed Care Fund Calculator Model (“**the CareCubed Model**”).
6. In the consultation document, the Defendant stated that the pricing strategy would be set through the following procedure:
- 6.1. It would consult on the proposed pricing strategy. This would result in a report, to be prepared by the Defendant’s officers.
- 6.2. The report would be presented to the Defendant’s Cabinet. The decision on the final pricing strategy would be made by the Cabinet, rather than by officers.
- 6.3. The pricing strategy would then be used “*to formally make the decision regarding any review of rates*” (consultation document [B36]).
7. That procedure conferred important safeguards for the benefit of care home providers before any new rates were imposed on them:
- 7.1. First, care home providers would be afforded an opportunity to make informed representations on the proposed pricing strategy, which the Defendant would conscientiously consider.
- 7.2. Second, the pricing strategy would be subject to Cabinet scrutiny.

8. Those procedural safeguards were particularly important given that the Defendant was discharging a public function which engages a strong public interest, and in light of the Defendant's dominant position as a customer in the care home market and the potential tension between its interest in securing low prices and its interest in maintaining the supply of care home places.
9. On 6 July 2021, the Defendant published its new care home rates (“**the Fees Decision**”)¹. This adopted the figures in the proposed pricing policy (as set out at para.4 above). However, extraordinarily:
 - 9.1. The Fees Decision was taken before the consultation responses on the proposed pricing strategy had been analysed; and
 - 9.2. The Fees Decision was taken by officers before the Cabinet had considered the proposed pricing strategy.
10. The Defendant's position is that the Cabinet will still consider the proposed pricing policy, but that offers cold comfort when the Fees Decision has already been taken (applying the proposed pricing policy).
11. There is a further, striking feature of the case. The figures generated by the CareCubed Model (which dictated the figures in the proposed pricing policy and the Fees Decision) were significantly lower than the actual costs (excluding profit) of providing care home places, as evidenced by data from 90.27% of the occupied beds in the Defendant's area. The Claimant sought to understand the shortfall and asked the Defendant to explain how the model operated. For example, the actual data showed that the costs of employing non-administrative support staff average £66.46 per bed per week (comprising the costs of cooks, kitchen assistants, domestics, laundry assistants etc.) whereas the CareCubed Model generates a figure of £19.93 per bed per week for non-administrative support staff. The Claimant asked the Defendant, among other things, whether the CareCubed Model includes

¹ The Defendant contends that the Fees Decision was taken on 22 June 2021. Nothing turns on this because the claim has been issued within 3 months of 22 June 2021.

any provision for the cost of cooks, kitchen assistants, domestics, laundry assistants etc. The Defendant's answer was that it did not know. It applied the model blindly.

12. In those circumstances, the Fees Decision was vitiated by three clear errors of law:

12.1. Ground 1: the procedure for taking the decision was flawed in that the Defendant applied the proposed pricing policy before analysing the responses to the consultation exercise on the proposed pricing policy and without the approval of Cabinet.

12.2. Ground 2: it was irrational for the Defendant to make the Fees Decision through the blind application of the CareCubed Model and/or it was procedurally unfair to deny the Claimant enough information about the CareCubed Model to be able to make informed representations about the appropriateness of the Defendant's reliance on the model in preference to the data on actual costs.

12.3. Ground 3: the Defendant failed to give adequate reasons for the Fees Decision. It was clear that the fees were determined by applying the CareCubed Model, but the Defendant did not explain why (indeed, did not know why) the CareCubed Model had generated those figures or why it preferred the CareCubed figures to the actual costs data.

13. The Claimant seeks an order quashing the Fees Decision.

14. The remainder of this document is structured as follows:

14.1. Section B – the statutory framework.

14.2. Section C – the relevant facts.

14.3. Section D – grounds for judicial review.

14.4. Section E – relief sought.

B. STATUTORY FRAMEWORK

15. Section 5 of the Care Act 2014 provides:

5 Promoting diversity and quality in provision of services

(1) A local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market—

- (a) has a variety of providers to choose from who (taken together) provide a variety of services;
- (b) has a variety of high quality services to choose from;
- (c) has sufficient information to make an informed decision about how to meet the needs in question.

(2) In performing that duty, a local authority must have regard to the following matters in particular—

- (a) the need to ensure that the authority has, and makes available, information about the providers of services for meeting care and support needs and the types of services they provide;
- (b) the need to ensure that it is aware of current and likely future demand for such services and to consider how providers might meet that demand;
- (c) the importance of enabling adults with needs for care and support, and carers with needs for support, who wish to do so to participate in work, education or training;
- (d) the importance of ensuring the sustainability of the market (in circumstances where it is operating effectively as well as in circumstances where it is not);
- (e) the importance of fostering continuous improvement in the quality of such services and the efficiency and effectiveness with which such services are provided and of encouraging innovation in their provision;
- (f) the importance of fostering a workforce whose members are able to ensure the delivery of high quality services (because, for example, they have relevant skills and appropriate working conditions).

(3) In having regard to the matters mentioned in subsection (2)(b), a local authority must also have regard to the need to ensure that sufficient services are available for meeting the needs for care and support of adults in its area and the needs for support of carers in its area.

(4) In arranging for the provision by persons other than it of services for meeting care and support needs, a local authority must have regard to the importance of promoting the well-being of adults in its area with needs for care and support and the well-being of carers in its area.

(5) In meeting an adult's needs for care and support or a carer's needs for support, a local authority must have regard to its duty under subsection (1).

- (6) In cases where a local authority performs the duty under subsection (1) jointly with one or more other local authorities in relation to persons who are in the authorities' combined area—
- (a) references in this section to a local authority are to be read as references to the authorities acting jointly, and
 - (b) references in this section to a local authority's area are to be read as references to the combined area.
- (7) “Services for meeting care and support needs” means—
- (a) services for meeting adults' needs for care and support, and
 - (b) services for meeting carers' needs for support.
- (8) The references in subsection (7) to services for meeting needs include a reference to services, facilities or resources the purpose of which is to contribute towards preventing or delaying the development of those needs.

16. Subsection 78(1) of the Care Act 2014 provides that “*A local authority must act under the general guidance of the Secretary of State in the exercise of functions given to it by this Part or by regulations under this Part*”. The Secretary of State has issued the “Care and support statutory guidance” (“**the Guidance**”) under that provision. Chapter 4 of the Guidance is headed “*Market shaping and commissioning of adult care and support*” and the introduction to the chapter states that it provides guidance on section 5 of the Act.

17. The Guidance provides:

“4.31. When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support, and allow for the service provider ability to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow retention of staff commensurate with delivering services to the agreed quality, and encourage innovation and improvement. Local authorities should have regard to guidance on minimum fee levels necessary to provide this assurance, taking account of the local economic environment. The tools referenced may be helpful as examples of possible approaches”.

“4.35. Local authorities should consider the impact of their own activities on the market as a whole, in particular the potential impact of their commissioning and re-commissioning decisions, and how services are packaged or combined for tendering, and where they may also

be a supplier of care and support. The local authority may be the most significant purchaser of care and support in an area, and therefore its approach to commissioning will have an impact beyond those services which it contracts. Local authorities must not undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term”.

C. RELEVANT FACTS

18. The evidence in support of this claim is set out in Keith Gray’s witness statement [B1], which the Court is asked to read alongside this statement of facts and grounds.

C.1 The Proposed Pricing Strategy and the Consultation Document

19. On 15 July 2019, the Defendant published two documents: its “Proposed Pricing Strategy for Older Person’s Residential Care 2019/20” (“**the Proposed Pricing Strategy**”) [B49] and an accompanying document which described how the Defendant would consult on the Proposed Pricing Strategy (“**the Consultation Document**”) [B33].

20. The Consultation Document stated that the Defendant sought the views of care home providers and other interested parties to inform its decision on the weekly rates to be paid for residential and nursing home services in 2019/20. It made clear that the consultation exercise would inform “*the decision regarding any review of rates*” [B36].

21. The Consultation Document explained that the Proposed Pricing Strategy “*proposes a new methodology for the calculation of care home fees*” and that the Defendant would provide care home providers “*All the information that is known and legally permissible to be shared to aid your understanding of the issue*” [B37].

22. The Consultation Document provided that: “*Given the important and strategic nature of this decision making process, it is proposed that any new Pricing Strategy will be agreed by the Authority’s Cabinet. Following this Consultation process and the consequent analysis, a report will be drafted and presented to the Authority’s Cabinet. This will seek a decision on the Pricing Strategy for older person’s residential care services*” [B37].

23. Thus, as set out at section A above, the Consultation Document promised two important safeguards for care home operators that would apply before new fee rates were set: (1) the opportunity to make informed representations on the proposed new methodology; and (2) a Cabinet decision, which would be informed by a report on the consultation responses.
24. The Consultation Document indicated that officers would aim to present the matter to Cabinet on 14 October 2019 [B38]. As matters stand, the matter has still not been presented to Cabinet.
25. The first consultation question asked was: *“Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside?”* [B38]. To answer that question, consultees self-evidently needed to understand how the new methodology calculated the cost of delivering residential care.
26. The Proposed Pricing Strategy began: *“This Proposed Pricing Strategy sets out the proposed arrangements for determining the price the Authority will pay to external providers for older people’s residential care provision”* [B52].
27. The Proposed Pricing Strategy stated that the Defendant had agreed, pending the completion of the Pricing Strategy, to make payments according to interim rates from 1 April 2019 onwards. The Claimant makes no complaint about the payment of interim rates or the level at which those interim rates were set. The Proposed Pricing Strategy continued: *“The purpose of this Proposed Pricing Strategy is to propose draft fee levels from 1 April 2019 and provide evidence to support this”* [B57].
28. The Proposed Pricing Strategy provided for the assessment of the quality of care home provision, pursuant to which care homes would be given a quality rating from grade 1 (the highest) to grade 4 (the lowest), with higher grade placements attracting higher fees [B58]. The Claimant makes no complaint about this grading system.
29. The Proposed Pricing Strategy noted that *“There are a number of different pricing models or organisations that can undertake a care cost exercise based on care home information”*

[B61]. It noted the models produced by Laing & Buisson and ADASS, but did not place any weight on those models in the formulation of the proposed prices. Instead, the Proposed Pricing Strategy recorded: “*Care Fund Calculator Model. This is the tool the Local Authority has used in order to arrive at the draft proposed rates in this Draft Pricing Strategy for 2019/20*” [B63]. It was stated that: “*The care fund calculator model uses a range of service and staffing inputs to calculate a cost range for care home provision. The model takes account of a range of cost indices to ensure that the costs used in the model are specific to the locality / area*” [B63].

30. The Proposed Pricing Strategy stated: “*Information from 30 older person’s homes in North Tyneside has been received and analysed as part of this review work*” [B63]. The Proposed Pricing Strategy gave the impression that this included local data of staff costs (including care staff, management staff, support staff) and non-staff costs [B63]. In fact, as disclosed by the Defendant at subsequent meetings, the Defendant had not obtained any costs data from local care homes. All that it had was data from a “dependency tool”, which indicated the number of care hours (*cf.* care costs) required by residents. The only costs data that informed the Proposed Pricing Strategy was the national data contained in the CareCubed Model. This included £8.49/hour for care staff, £9.26 for senior care staff, £10.08 for administrative staff, £12.10 for deputy managers and £21.14 for managers [B64]. No figures were identified for support staff such as cooks, cleaners and laundry workers.

31. The Proposed Pricing Strategy recorded that “*The tool also takes account of local cost indicators and markets*” [B64], but did not explain how it did so. Despite numerous meetings and correspondence, it remains entirely unclear to the Claimant how the CareCubed Model took account of local cost indicators and markets (if, indeed, it actually did so).

32. The Proposed Pricing Strategy stated that the CareCubed Model generated a figure of £572.60/week for ordinary residential care. All other figures in the Proposed Pricing Strategy were based on that figure, as follows:

32.1. The Defendant applied an uplift to that figure of 3.7% to arrive at a figure for dementia care.

32.2. The Defendant distributed the figure across the four grades of care homes, using the formula for that distribution that had been used prior to 2019 [B65]. This generated the figures which are reproduced at paragraph 4 above.

32.3. The Defendant proposed that for future years, the figures would either be updated for inflation or the CareCubed Model would be rerun [B68].

33. The explanation of the methodology for the CareCubed Model was set out at appendix 4 to the Proposed Pricing Strategy [B73]. The breakdown of the £572.60/week figure was set out at appendix 5 [B77].

34. From the figures in the Proposed Pricing Strategy and the appendixes, it was possible to discern the way in which some components of the £572.60/week figure had been arrived at. For example, a figure of £176.60 was given for daytime care costs, using only basic grade care staff. It could therefore be deduced that the £176.60 figure was based on 16.56 hours (using an hourly rate of £8.49 plus on-costs of employment of £2.17). However, it was not possible to identify how other components of the £572.60/week figure had been arrived at. For example, the breakdown of costs identified a figure of £19.93/week for “support staff – other care” [B77]. Nothing in the Proposed Pricing Strategy or the methodology at appendix 4 explained how that figure had been arrived at.

35. As Mr Gray explains, the CareCubed Model is understood to be a tool used as a cross-check (not an end-point) when formulating individual care packages (not blanket fee rates) for adults under 65 with learning disabilities (not elderly persons without learning disabilities) (para.67 [B28]). The Proposed Pricing Strategy did not explain why the authors of the strategy considered that the CareCubed Model was an appropriate tool for setting fees for elderly care home placements.

C.2 The Consultation Response

36. The Claimant submitted a formal consultation response on 24 September 2019 [B87] (“**the Consultation Response**”). It was supported by a report prepared by Costing Care Limited,

which set out the actual costs incurred by local providers (“the Cost of Care Report”). The Cost of Care Report was based on data from 90.27% of the occupied beds in the Defendant’s area (Gray, para.36.1 [B11]).

37. The Cost of Care Report identified the cost to providers (excluding any element of profit) of providing an ordinary residential care bed as £639.72/week and the cost for a dementia care bed as £716.61/week [B117]. According to this data, the figure generated by the Carecubed Model would result in a £67.12/week loss to providers for an ordinary residential care bed and more for a dementia care bed.

38. Unlike the Carecubed Model, the Cost of Care Report provided an explanation of each of the component costs borne by care providers. Thus, for example, in respect of non-administrative support staff, it provided:

Chefs / cooks	£14.60
Kitchen / catering assistants	£12.66
Domestics	£18.05
Laundry assistants	£13.85
Other staff (including handymen)	£7.30
Total:	£66.46/week

39. In the Consultation Response, the Claimant explained that it was unable to understand how the Carecubed Model had generated a figure of £572.60/week and that “*Until we fully understand the source of the information used by the Council and how it was obtained, it is impossible for us to formulate a definitive response which addresses the accuracy of the information*” [B95].

40. As described at section D [B14] and section G [B24] of Mr Gray’s witness statement, the Claimant continued to press the Defendant for information about the basis for the figures generated by the CareCubed Model. The Defendant was unable to answer those questions. For example, the Defendant’s officers did not know on what basis the CareCubed model generated a figure of £19.93/week for “support staff – other care” or whether the model made any allowance for cooks, catering assistants, domestics, laundry assistants or other

staff. Thus, it is possible that a significant part of the disparity between actual care costs and the figure generated by the CareCubed Model is that it omits to make provision for certain costs.

C.3 The Fees Decision

41. On 6 July 2021, the Defendant published its decision on care home fees for 2019 onwards [B238]. The appendix to this Fees Decision specified a schedule of rates [B240]. The rates for 2019/20 were a direct application of the Proposed Pricing Strategy (save for an unexplained 20 pence difference for band 1 placements), as follows:

Residential Care - general		
	Proposed Pricing Strategy	Letter of 6 July 2021
Band 1	£590.57	£590.37
Band 2	£554.35	£554.35
Band 3	£519.38	£519.38
Band 4	£490.24	£490.24

Residential Care - dementia		
	Proposed Pricing Strategy	Letter of 6 July 2021
Band 1	£612.42	£612.21
Band 2	£574.86	£574.86
Band 3	£538.60	£538.60
Band 4	£508.38	£508.38

42. Mark Longstaff (the Defendant’s Director of Commissioning and Asset Management) subsequently confirmed that “*The offer reflects the figure the model produced*” and “*The data was fed into the model and [the offer] was the figure that the model kicked out*” [B273].

43. The fee levels for 2020/21 and 2021/22 used those figures, as uprated for inflation.

44. Thus, the Fees Decision was an application of the Proposed Pricing Strategy. However, remarkably:

44.1. It was taken before the consultation exercise on the Proposed Pricing Strategy had concluded. The Defendant had not analysed the consultation responses.

44.2. It was taken by officers, before the Cabinet had considered the Proposed Pricing Strategy.

45. Had the Defendant decided to abandon its consultation exercise and determined that the Pricing Strategy should be set by officers rather than the Cabinet? No. As the Defendant put it in its pre-action protocol reply:

“Paragraph 70 of the Letter before Claim sets out that it is believed that the Council has failed to follow the process as set out within the Consultation Document, insofar as the Consultation Document informed interested parties that notwithstanding delegated authority, it would refer any decision regarding fee setting to Cabinet. It is accepted that this did not happen and the decision regarding fee setting was authorised by the Head of Health, Education, Care and Safeguarding using delegated authority. It was considered that the decision regarding fee setting may require Cabinet approval and this was communicated with the Consultation Document; the Council wished to be transparent with interested parties that such a decision may be required. However, due to the relatively small change within the fees being set, it was considered that such a decision was not required, and it was appropriate to be made using the appropriate delegated authority. The overall Pricing Strategy will be considered by Cabinet. It is not accepted that the use of delegated authority instead of Cabinet approval insofar as the decisions regarding fee setting amounts to a failure to consult appropriately or to follow the process as set out in the Pricing Strategy document” (emphasis added) [B279].

46. Thus, the Defendant contends that it has not departed from the procedure specified by the Consultation Document. The Cabinet will still determine the Pricing Strategy, based on an analysis of the consultation responses.

47. However, the Defendant has not identified any logical basis for setting the fee levels based on the Proposed Pricing Policy before determining whether the Proposed Pricing Policy should be adopted (in light of the consultation responses). The contention in the pre-action

reply that it was legitimate to take the Fees Decision “*due to the relatively small change within the fees being set*” is circular – the change in fees is only relatively small if the Proposed Pricing Policy is applied.

D. GROUNDS FOR JUDICIAL REVIEW

D.1 Ground 1: it was procedurally unfair to take the Fees Decision based on the Pricing Strategy before the consultation on the Pricing Strategy had been completed and the Cabinet had made on a decision on the Pricing Strategy

48. As set out above:

48.1. The Pricing Strategy was intended to be used to set care home fees for 2019-2022.

48.2. The procedure for setting the Pricing Strategy (and therefore setting care home fees) was accompanied by two safeguards: (1) a consultation exercise; and (2) a decision by Cabinet.

48.3. The care home fees for 2019-2022 were set applying the Proposed Pricing Strategy, before the two procedural safeguards had been complied with.

49. To apply the Proposed Pricing Strategy to set the 2019-2022 fee levels before the conclusion of the consultation exercise and before the Cabinet had considered the Proposed Strategy was clearly unfair. It would render nugatory the Cabinet’s decision on whether to approve the Proposed Pricing Strategy.

50. This also constituted a breach of the fourth of the four consultation requirements set out under ground 2(a) below.

D.2 Ground 2: using the CareCubed model to take the Fees Decision was (a) unfair when the Claimant had not been afforded an effective opportunity to make representations on the model and/or (b) irrational when the Defendant did not know how the CareCubed figure was derived or why it differed from the local costs data

(a) Unfair

51. There are four essential requirements of a fair consultation process (*R (Moseley) v Haringey London Borough Council* [2014] UKSC 56 [2014] 1 WLR 3947, para.25, *per* Lord Wilson):

51.1. First, the consultation must be at a time when proposals are still at a formative stage.

51.2. Second, the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response.

51.3. Third, adequate time must be given for consideration and response.

51.4. Fourth, the product of consultation must be conscientiously taken into account in finalising any proposals.

52. Those requirements apply both where there is a duty to consult and where a consultation is embarked on voluntarily (*R (Eisai Ltd) v National Institute for Health and Clinical Excellence* [2008] EWCA Civ 438, para.24, *per* Richards LJ).

53. The Defendant breached the second consultation requirement by failing to give the Claimant sufficient information about the CareCubed Model, on which it proposed to base the Pricing Strategy, to permit of intelligent consideration and response.

54. The failure in this case is analogous to the failure identified by the Court of Appeal in *R (Eisai Ltd) v National Institute for Health and Clinical Excellence* [2008] EWCA Civ 438. The National Institute consulted the claimant on its decision whether to recommend the use of a drug in the NHS. It provided the claimant with a copy of the model it used, which the

claimant could run, but which did not permit changes to be made to the inputs or assumptions (para.14). The Court found that the National Institute's failure to disclose a fully executable version of the model prevented the claimant from testing its weaknesses, which was "*a matter on which consultees may properly have something to say*" (para.45). The consultation exercise was therefore held to be unfair.

55. The error in this case was more egregious. The Claimant's complaint is not merely that the Defendant failed to disclose a copy of the CareCubed model that would enable the Claimant to test its validity, but that the Defendant failed even to explain how the model generated the figures which the Defendant relied on. For example, the Defendant wholly failed to explain how the figure of £19.93 per bed for non-administrative support staff was arrived at. This deprived the Claimant of an effective opportunity to make informed representations on the appropriateness of relying on the CareCubed model in preference to the actual costs data.

(b) Irrational

56. As Saini J explained in *R (Wells) v Parole Board* [2019] EWHC 2710 (Admin), paras.31-34:

"31. A modern approach to the Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) 1 K.B. 223 (CA) test is not to simply ask the crude and unhelpful question: was the decision irrational?"

32. A more nuanced approach in modern public law is to test the decision-maker's ultimate conclusion against the evidence before it and to ask whether the conclusion can (with due deference and with regard to the Panel's expertise) be safely justified on the basis of that evidence, particularly in a context where anxious scrutiny needs to be applied.

33. I emphasise that this approach is simply another way of applying Lord Greene MR's famous dictum in Wednesbury (at 230: "no reasonable body could have come to [the decision]") but it is preferable in my view to approach the test in more practical and structured terms on the following lines: does the conclusion follow from the evidence or is there an unexplained evidential gap or leap in reasoning which fails to justify the conclusion?"

34. *This may in certain respects also be seen as an aspect of the duty to give reasons which engage with the evidence before the decision-maker. An unreasonable decision is also often a decision which fails to provide reasons justifying the conclusion.*”

57. Here, the only discernible reasoning for the Fees Decision is that this “*was the figure that the model kicked out*” (see para.42 above).

58. That reasoning could not justify the Fees Decision because the Defendant did not adequately understand why the model had “kicked out” those figures. The model was, to a significant extent, a black box which the Defendant had applied blindly.

59. Moreover, the Defendant could not rationally prefer the model to the actual fees data in the Cost of Care Report when it did not fully understand the model. For example, why should the model’s figure of £19.93 per bed for non-administrative support staff be preferred to the costs data of £66.46, when the Defendant had no idea how the £19.93 figure had been derived?

D.3 Ground 3: inadequate reasons

60. As Maurice Kay LJ put it in *R (Savva) v London Borough of Kensington and Chelsea* [2010] EWCA Civ 1209 [2011] PTSR 761, para.19:

“This is not a case in which the statute or the regulations impose a duty to provide reasons for the decision of the panel. Nor does any of the guidance refer in terms to the provision of reasons. The question is whether the context is one in which the common law requires reasons to be given. It does so where fairness requires it and there is a recognised trend in the direction of requiring reasons: see Stefan v General Medical Council [1999] 1 WLR 1293, 1300F, per Lord Clyde and De Smith’s Judicial Review, 6th ed (2007), p 413.”

61. Savva’s case concerned a local authority’s calculation of the costs of meeting an individual’s community care needs. The Court of Appeal held that reasons were required for the decision:

“20. ...If a local authority were entitled to notify a bald figure without any explanation, the recipient would have no means of satisfying himself or herself that it was properly calculated. ...Or, to put it the other way round, an absence of explanations may make it impossible to mount such a challenge, whether by way of complaint or by way of litigation.

21. In many cases, the provision of adequate reasons could be achieved with reasonable brevity. In the present case, I would consider it adequate to list the required services and assumed timings (as was actually done in the FACE assessment), together with the assumed hourly cost. That would not be unduly onerous. I appreciate that some recipients require more complicated arrangements which would call for more expansive reasoning but if that is what fairness requires, it must be done.”

62. It follows that the Defendant was under a common law duty to give reasons for its Fees Decision in this case. If there is a common law duty to give reasons for the sum of money a local authority is prepared to allocate in an individual case then *a fortiori* there must a duty to give reasons for the sum a local authority is prepared to allocate in a whole class of cases.
63. The purpose of the duty is to enable those affected to understand whether the Fees Decision was lawful. As Hickinbottom LJ put it in *R (Help Refugees Ltd) v Secretary of State for the Home Department* [2018] Civ 2098 [2018] 4 WLR 168, para.122(iii): “*The rule of law requires effective access to justice. Therefore, generally, unless (eg) excluded by Parliament, there must be a proper opportunity to challenge an administrative decision in the court system. As a consequence, unless rendered impractical by operational requirements, sufficient reasons must be given for an administrative decision to allow a realistic prospect of such a challenge. Where the reasons given do not enable such a challenge, they will be legally inadequate*”.
64. Here, the only explanation for the 2019/2020 fees contained in the Fees Decision was that it “*equates to approx. 4.6%*” increase above 2018/19 fees [B238]. However, as Mr Longstaff made clear on 26 July 2021, the Fees Decision for 2019/20 fees was not based on a percentage uplift on previous fees. Rather, “*The offer reflects the figure the model produced*” [B273].

65. The Claimant's complaint is not that Mr Longstaff's explanation was not recorded in the decision letter, but rather that the reason given ("*The offer reflects the figure the model produced*") was not legally adequate. The Claimant was left in the dark as to whether the Defendant had (in applying the model) had regard to matters raised in the Claimant's consultation response, such as local costs data or the costs of employing cooks and cleaners or washing laundry.
66. The Claimant does not contend that this explanation had to be incorporated into the body of the Fees Decision: a public body's analysis of consultation responses would ordinarily be contained in a consultation response; and an adequate explanation of the model could have been included with the consultation proposal or on the Defendant's website (just as, in Savva's case, the Court of Appeal held that "*Recipients and their advisers are entitled to know about the RAS [the resource allocation model at issue in that case] but, as the association's guidance recommends, this can be achieved by publishing the RAS on the local authority's website in a user-friendly format*" (para.21). The problem is that the Claimant has been left unable to discern (from any source) why the Defendant preferred the figure "*kicked out*" by the model to the actual costs data (taken from 90% of occupied beds in the Defendant's area) that was submitted by the Claimant. For example, why did the Defendant prefer the figure of £19.93/week for non-administrative support staff to the actual costs data of £66.46 per bed per week?

E. RELIEF

67. The Claimant seeks an order on the papers for permission to apply for judicial review, together with standard directions. The permission threshold (which is designed to keep out weak and vexatious claims – *R v Secretary of State for Trade and Industry, ex p. Eastaway* [2000] UKHL 56; [2000] 1 WLR 2222, 2227H, *per* Lord Bingham) is plainly surmounted. The Claimant's time estimate is 2 days. Given the importance of the claim, the Claimant asks that the substantive hearing be listed to be heard by a full-time High Court judge.
68. At the substantive hearing, the Claimant will seek:

- 68.1. The grant of judicial review.

68.2. An order quashing the Fees Decision.

68.3. Such further or other relief as is necessary to give effect to the judgment of the Court.

68.4. Costs.

F. CONCLUSION

69. For the reasons set out above, the Claimant seeks permission to apply for judicial review, the grant of judicial review and relief in the terms set out above.

CHRIS BUTTLER QC

MATRIX

20 SEPTEMBER 2021

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- (1) Party: Claimant
- (2) Witness: K Gray
- (3) First Statement
- (4) Exhibit: KG1
- (5) Date: 16.09.21

CLAIM NUMBER:

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT**

BETWEEN:

THE QUEEN
on the application of

CARE NORTH EAST

Claimant

And

NORTH TYNESIDE COUNCIL

Defendant

FIRST WITNESS STATEMENT OF KEITH GRAY

I, KEITH GRAY of 97 Miller Close, Newcastle upon Tyne, NE12 9ET state as follows:

1. I am the Chairman of Care North East. Care North East is an association which represents the interests of care home providers who operate care homes in the North East of England. I am a certified accountant by profession and a Fellow of the Association Chartered Certified Accountant (FCCA). I joined the board of CNE in 2004 and assumed the position of Chairman in 2013.

2. CNE's membership is made up of care home operators amounting to nearly 250 care homes across the North East, who in total account for near 10,000 care home beds. One of CNE's functions is to represent its members in discussions and engagement with the local care home commissioners; these are the respective local authorities and clinical commissioning groups ('**CCG**').
3. Throughout the remainder of this witness statement, I will refer to Claimant (Care North East) as '**CNE**' and to the Defendant (North Tyneside Council) as 'the **Council**'.
4. I make this statement in support of CNE's application for permission to proceed with a judicial review against the Council and in support of the substantive proceedings in the event that permission is granted.
5. Unless stated to the contrary, the facts and matters contained within this witness statement are within my own knowledge.
6. Throughout this statement, I will refer to the bundle of documents contained within the exhibit marked KG1 which are introduced with this statement. 'Enclosure' references are references to the corresponding enclosure within exhibit KG1.
7. I will begin by setting out at sections A and B below some general background information regarding the types of care homes and how care home fees are currently funded in England:

(A) Types Of Care Homes

8. Principally there are two categories of care homes; one providing care to individuals under the age of 65 years (i.e. to adults who are of working age), and one providing care to individuals over the age of 65 years (i.e. elderly care). The Claimant's membership is made up of care homes who provide elderly care. Within this category, there are two types of care home. Firstly, there are those that simply provide accommodation and personal care, most commonly referred to as 'residential care homes'. Should residents within these homes require treatment from a nurse then, unless they are admitted to hospital, the treatment must be provided by a District Nurse as residential homes are not registered with the CQC to provide nursing care. Secondly, there are care homes that, in addition to being registered to provide accommodation and personal care, are also registered to

provide nursing care. The term 'care home' covers both residential and nursing homes. Of course, there are those care homes that offer and provide both residential care services and nursing care services, and are accordingly registered with the CQC to provide both of these categories of service.

9. I should also mention that residential care homes and nursing care homes both provide (or at least, may provide) services to individuals who suffer from dementia. Dementia is on occasions still referred to as 'EMI' or 'Elderly Mentally Infirm'.

10. Care homes are heavily regulated. In addition to being subject to the provisions of the Health & Social Care Act 2008, care home operators are also subject to the provisions of the Care Quality Commission (Registration) Regulations 2009 and the Health & Social Care Act 2008 (Regulated Activities) Regulations 2010. Given their relevance to question of care home costs/funding, I draw particular attention to the following regulations regarding the need for a provider to remain financially viable and to ensure that suitably trained staff are deployed in sufficient numbers at all times:

- Regulation 13(1) of the Care Quality Commission (Registration) Regulations 2009 requires a care home operator *"to take all reasonable steps to carry on the regulated activity in such manner as to ensure the financial viability of the carrying on of that activity"* for the purpose of ensuring compliance with the 2009 and 2010 Regulations.
- Regulation 12 of the Health & Social Care Act 2008 (Regulated Activities) Regulations 2014 requires care home providers to ensure that *"care and treatment"* are provided in a safe way. This is stated to include *"ensuring that persons providing care or treatment to service users have the qualifications, competence, skills and experience to do so safely"*.
- Regulation 18 of the Health & Social Care Act 2008 (Regulated Activities) Regulations 2014 requires care home providers to ensure that *"sufficient numbers of suitably qualified, competent, skilled and experienced persons"* are deployed at all times. There is some overlap with this requirement and that of regulation 12.

(B) The Funding Of Care Home Fees

11. Care home fees are funded in a number of ways.
12. If an individual's primary care need is health related which gives rise to a need for nursing care (rather than arising from social care needs), the individual's responsible Clinical Commissioning Group is required to meet the whole of the individual's care home fees. This method of funding is referred to as Continuing Health Care ('**CHC**'). CHC is not means tested. This case is not concerned with CHC funding.
13. If nursing care is not an individual's primary care need (i.e. they are not eligible for CHC) and they have capital of over £23,250, the individual is required to meet the full cost of their care from their own personal resources. If, however, an individual has capital of between £14,250 and £23,250, they are expected to contribute to the care home fees from their capital resources as well as from their income. The level of their contribution will depend upon the extent of their means between £14,250 and £23,250. The balance of the fees will be met by their local authority up to the maximum fee rate that the local authority is prepared to pay. Local authorities usually have more than one maximum fee rate in order to cover the different categories of care. Ordinarily there will be different fee rates for residential care, residential dementia care, nursing care and nursing dementia care, on the basis that the latter forms of care are more expensive to provide than the former. Some authorities may also have different rates within each of these care bands; the rate payable usually being dependent upon the local authority quality rating/banding for the care home.
14. Even if an individual is not eligible for CHC, they may have ancillary nursing needs. Local authorities are prohibited under the provisions of section 22 of the Care Act 2014 from commissioning nursing care, unless they are acting as a commissioning agent for their local CCG. Any provision that a local authority may make within its fee rates for nursing care, does not therefore cater for the costs of providing nursing care. Those costs are instead met by a national fixed rate 'Funded Nursing Care' ('**FNC**') payment, which is paid separately by the local CCG on top of the local authority's fee in those cases where an individual has ancillary nursing needs. However, local authorities may set a higher rate for placements at which ancillary nursing care is provided, to reflect the fact that individuals with ancillary nursing needs (which qualify them for the FNC payment) will ordinarily also have higher social care needs.
15. Personal budgets were introduced by the Care Act 2014. Having assessed an individual as having care and support needs for which the local authority is responsible, the authority

is now required to prepare a care and support plan for the individual, which must include a personal budget. The personal budget must specify: (a) the cost to the authority of meeting the individual's needs which it is required or decides to meet; (b) the amount which, on the basis of a financial assessment, the individual must pay towards that cost; and (c) the amount the local authority must pay towards that cost. The amount of the local authority's payment will ordinarily be determined by what the local authority has set as its fee rate.

16. If there is a shortfall between the fee charged by a care home and the local authority's fee rate, this shortfall will have to be met by what is referred to as a 'Third Party Top-Up'. This is usually paid for by a relative of the individual receiving care home services. Chapter 11 of the Care Act Guidance addresses these Top-Up payments and personal budgets. It provides:

(1) *"The personal budget must always be an amount sufficient to meet the person's care and support needs, and must include the cost to the local authority of meeting the person's needs which the local authority is under a duty to meet..."* (paragraph 11.10)

(2) *"...there may be cases where a person or a third party on their behalf is making an additional payment (or a "top-up") in order to be able to secure the care and support of their choice, where this costs more than the local authority would pay for such a type of care. In these cases, the additional payment does not form part of the personal budget, since the budget must reflect the costs to the local authority of meeting the needs."* (paragraph 11.14)

(3) *"Local authorities should ensure that the method used for calculating the personal budget produces equitable outcomes to ensure fairness in care and support packages regardless of the environment in which care and support takes place, for example, in a care home or someone's own home. Local authorities should not have arbitrary ceilings to personal budgets that result in people being forced to accept to move into care homes against their will."* (paragraph 11.22)

(4) *"Regardless of the process used, the most important principles in setting the personal budget are transparency, timeliness and sufficiency";* the following statement being made with regards to sufficiency - *"The amount the local authority calculates as the personal budget being sufficient to meet the person's needs which the local authority is required to meet under section 18..."* (paragraph 11.24)

(5) *“The Act states the personal budget must be an amount that is the cost to the local authority of meeting the person’s needs. In establishing the ‘cost to the local authority’, consideration should therefore be given to local market intelligence and costs of local quality provision to ensure that the personal budget reflects local market conditions and that appropriate care that meets needs can be obtained for the amount specified in the budget.”* And further, the personal budget should be based *“on the cost of quality local provision”*. (paragraph 11.25)

17. If an individual has capital of less than £14,250, they will not have to make any contribution to the care home fees beyond their pension. There may of course still be a need for a Third Party Top-Up.

18. If a local authority is responsible for meeting all or part of the care home fees because an individual’s capital is below £23,250, the local authority will enter into a contract with the care home in question, under which the local authority will commission the whole of the care services. This is typically done through a framework agreement under which the local authority will then place individual residents.

19. As an individual’s capital diminishes over time, it is not uncommon for them to move from being privately funded to being funded (in whole or in part) by their responsible local authority. This is not something over which a care home has any control and can create situations where a care home may move from providing care under a private contractual arrangement with the resident, to a contractual arrangement with the responsible local authority.

20. I will turn now to the Council’s arrangements for funding care home placements.

(C) The Consultation Document, the Proposed Pricing Strategy and CNE’s response

21. On 15 July 2019, the Council produced its ‘Pricing Strategy For Older Person’s Residential Care 2019/20 Consultation Document’ (‘the **Consultation Document**’); a copy of which appears at KG1 enclosure 1, page 33. The Council sent the Consultation Document to care home owners on 22 July 2019 marking the commencement of the Council’s consultation on care home fee rates.

22. The ‘Introduction’ on page 2 of the Consultation Document provided:

“The Authority is proposing to review the weekly rates paid for residential and nursing home services 2019/20 for older people (and other client groups as appropriate) and wishes to consult with the care home in North Tyneside on its proposals. Whilst the decision will ultimately be made by the Authority, the Authority seeks the views of care home providers and other interested parties, to inform its decision making process.

This document sets out how this consultation will take place and the subsequent decision making process that will follow, in order for the Authority to formally make the decision regarding any review of rates.

The Consultation should be read alongside the Proposed Pricing Strategy document dated 15 July 2019. A copy of this document is part of this Consultation.” (emphasis added).

23. I therefore understood that the Council would complete the consultation exercise and determine the Pricing Strategy before setting revised rates.

24. Under the heading ‘Consultation Process’ on page 2 and 3 of the document, the Council informed the reader that “Adult Social Care has a set of engagement standards that set out how [the consultation] should take place”. The document went on to state the following:

“The Proposed Pricing Strategy proposes a new methodology for the calculation of care home fees for older people for 2019/20 and beyond. This Consultation offers local providers and other interested parties the opportunity to have their say about this and to enable the Authority to consider your views on our proposals, alongside those of others. As part of Adult Social Care’s Engagement Standards, we will give:

- Sufficient notice and opportunity to get involved*
- All the information that is known and legally permissible to be shared to aid your understanding of the issue*
- Advance information on what decisions have already been made and why those decisions have been made and then what parts of the issues or decisions you can still influence*
- Include details of the issues raised and responses in the decision making process.”*

25. I therefore understood that the Council would provide all the relevant information of which it knew (subject to it being legally permissible to do so) to local care providers and other interested parties.

26. As stated within the above extract from the Consultation Document, the 'new methodology' referred to was set out within the Proposed Pricing Strategy ('the **Proposed Pricing Strategy**'), a copy of which the Council appended to the end of the Consultation Document. On page 13 of that document under the heading 'Care Fund Calculator Model', the Council stated:

"This is the tool the Local Authority has used in order to arrive at the draft proposed rates in this Draft Pricing Strategy for 2019/20.

The care fund calculator model uses a range of service and staffing inputs to calculate a cost range for care home provision. The model takes account of a range of cost indices to ensure that the costs used in the model are specific to the locality / area."

27. Accordingly, the Council confirmed that its proposal was to adopt "a new methodology [i.e. the Care Fund Calculator] for the calculation of care home fees for older people for 2019/20 and beyond". The proposal was to use the Care Fund Calculator to actually set the fees the Council would pay to care home providers, rather than to use the Care Fund Calculator as one indicator (among others) that would inform the Council's decision on fee rates.

28. As detailed on page 14 of the Pricing Strategy, the Care Fund Calculator costing model generated a single fee rate (which the Council refers to as a 'blended rate') of £572.60 per care home resident per week. A breakdown of this figure is contained in a table on page 14 of the Pricing Strategy, with a more detailed breakdown appearing within Appendix 5 of the Pricing Strategy.

29. Page 15 of the Pricing Strategy provided:

"The blended rate can then be used as a basis for the calculation of the rates for each of the grades. This is done on the basis of the proportion of current costs and placement numbers across the homes / placements in North Tyneside.

This is set out as follows:

Residential Care		2019/20 Proposed	Blended Rate
	Grade 1	£590.57	£572.60
	Grade 2	£554.35	
	Grade 3	£519.38	
	Grade 4	£490.24	

The rates for dementia care can be further increased by 3.70%, this is the current differential in general / dementia rates. This is further set out as follows:

	No. of Care Homes	2019/20 Proposed	Proposed Weekly Price - dementia care
Grade 1	19	£590.57	£612.42
Grade 2	7	£554.35	£574.86
Grade 3	3	£519.38	£538.60
Grade 4	1	£490.24	£508.38

30. Thus, the 2019/20 rates proposed in the Proposed Pricing Strategy were a straightforward application of the rates that were generated by the Care Fund Calculator model.

31. On page 6 of the Consultation Document and following, the Council posed 7 "consultation questions" of which:

- Question 1 asked, "Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why."
- Question 2 asked, "The draft Pricing Schedule links the costs of dementia / EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate."

32. Accordingly, as part of the consultation process, the Council sought responses which specifically addressed the costs contained within the model it had used to calculate the

fee rate proposals for 2019/20 and what costs may not have been considered by the Council. The second consultation question also raised the issue of the appropriateness of the Council's approach to calculating dementia care.

33. As to the decision-making process, page 3 of the Consultation Document provided:

“Decision Making Process

The Authority's power to set care home fees is delegate under the Authority's Constitution, to the Head of Health, Education, Care and Safeguarding. Given the important and strategic nature of this decision making process, it is proposed that the any [sic] new Pricing Strategy will be agreed by the Authority's Cabinet.

Following this Consultation process and the consequent analysis, a report will be drafted and presented to the Authority's Cabinet. This will seek a decision on the Pricing Strategy for older person's residential care services.

It is planned at this stage that the report will be presented to the Cabinet meeting on 14 October 2019. From this date there is a 5 day call-in period. Following the call in period, it is proposed that the Authority will publish the decision and the formal Pricing Strategy as soon as possible.

If there are a substantial number of responses to this Consultation and / or the responses are sufficiently complex in nature, the decision report to Cabinet may need to be delayed to a later meeting, ie November 2019.”

34. I therefore understood that CNE would be afforded two procedural safeguards. First, Pricing Strategy (which would be used to set fee rates) would not be finalised until the consultation exercise had been completed. Second, the decision on the Pricing Strategy (which would be used to set fee rates) would be taken by the Cabinet, rather than by the officers who formulated the Pricing Strategy.

35. Following an agreed extension of time, CNE submitted a detailed written response to the Consultation Document ('**CNE's Consultation Response**') on 24 September 2019. A copy of this response appears at KG1, enclosure 2, page 33.

36. As part of CNE's Consultation Response, CNE relied on a Cost of Care Report prepared by Costing Care Limited ('the **Cost of Care Report**') and provided an update of the costs contained within that report so as to take account of the increase in the National Living Wage in April 2019. A copy of the Cost of Care Report appears at KG1, enclosure 3, with its Appendices at enclosure 4 and the National Living Wage update enclosure 5, page 121. As to this:

36.1. The Cost of Care Report was prepared by me in my professional capacity as an accountant; I am a director of Costing Care Limited. The Cost of Care Report undertook a detailed analysis of the costs of providing elderly care home services in North Tyneside. The data obtained for these purposes was taken from 18 care homes of which 10 were care homes providing residential care services and 8 were care homes providing nursing services. These 18 care homes were spread over 12 separate care providers operating within North Tyneside. There were a total of 812 registered beds within the participating care homes (that is approximately 70% of the total number of registered beds in North Tyneside), of which 733 were occupied beds. This equated to 90.27% of the occupied care beds within North Tyneside. A detailed breakdown of this figure across the respective care categories is set out on page 4 of the Cost of Care Report, a copy of which appears at KG1, enclosure 3, page 110.

36.2. As detailed on page 8 of the Cost of Care Report under the heading 'Provider Profit', no provision was made for profit within the actual costing calculations contained in the report. As the report states:

"However, typical profit margins from various sources indicate a range of 6-10% on costs. For your information, we have provided a table at appendix 3 showing the typical profit margin percentages and the impact they would have on these costings."

36.3. The Cost of Care Report also set out data on total weekly fee income, taken from surveys that providers had completed and submitted. That income related to local authority funded placements, CHC funded placements, out of area placements funded by other local authorities outside of North Tyneside, private funded placements and third-party top-ups. As stated within the 'Conclusion' to the report, the information contained within it was based on actual cost figures and minimal assumptions. It also used actual occupancy levels, which at that time were 90.27% rather than the 87.5%

used by the Council within its cost calculations¹. Using a higher occupancy level (as the Cost of Care Report did) would serve to reduce the costs figure generated, because the total costs would be averaged across a larger population.

36.4. The detailed findings of the Cost of Care Report are contained within Appendices 1 to 4 to the report, a copy of which appear at KG, enclosure 4, page 117. As detailed within Appendix 4 to the Cost of Care Report, the local evidence shows that there is a shortfall between the total income received by care homes in North Tyneside and their costs of providing the services. Also shown in Appendix 4 is the significant shortfall between the fee rates paid by the Council and the costs of providing the care home services it commissions. The lowest shortfall is £54.25 per resident per week for non-dementia care and the highest shortfall is £132.06 per resident per week for dementia care services. It is important to bear in mind that these shortfalls are pre-profit. In other words, the figures do not merely indicate an absence of profit, they indicate an absolute loss. Some care home owners are able to bear such losses on a short-term basis by offsetting the loss against profits from care homes in other areas. However, it is clearly not commercially viable to operate a loss-making care home in the longer term.

37. These matters are all addressed in more detail within CNE's Consultation Response at paragraph 19 and following of that document.

38. Within CNE's Consultation Response at paragraphs numbered 24 to 31, CNE set out its response to the first of the Council's consultation questions which I have referred to above at paragraph 31 of this witness statement².

39. I could not understand how the Care Fund Calculator Model had generated figures that were so much lower than the actual costs of care. By way of example, the Care Fund Calculator Model (now referred to as CareCubed) used by the Council generated a figure

¹ Although the Council does not expressly refer to its use of an occupancy level of 87.5% within the Consultation Document, it can be calculated by reference to the stated 1,486 beds of which 1,286 are stated to be occupied on page 6 of the Pricing Strategy. The use of the occupancy level of 87.5% has not been disputed by the Council and was confirmed by them in a meeting with CNE which I attended on 12 March 2021. A copy of the slides used by the Council at that meeting in which the figure of 87.5% is confirmed, appear at KG1, enclosure [20], page [.].

² i.e. "Please consider the Proposed Pricing Strategy and in particular the information used by the Authority in order to arrive at the potential rates. Has the Authority taken into account all of the relevant costs of delivering residential care in North Tyneside? If not, please detail what other costs, in your view, should be considered and why."

of £19.93/week for support staff (other than administrative staff). By contrast, the Cost of Care Report showed that the actual cost to care homes of a non-dementia bed include non-administrative support staff costs totalling £66.46 (comprising the costs of cooks, kitchen assistants, domestics, laundry assistants and other staff such as handymen) (see Appendix 1 to the Cost of Care Report). It was wholly unclear to me whether and, if so, how the Care Fund Calculator Model had made allowance for the costs of cooks, laundry assistants *et cetera*. CNE therefore needed further information from the Council about how the Care Fund Calculator Model operated, in order to understand how the Council had produced the figures in its Proposed Pricing Strategy.

40. CNE raised a number of concerns in its Consultation Response based on the information the Council had provided (paragraphs 27 to 30 of CNE's Consultation Response - exhibit KG1, enclosure 2, page 94). As can be read there, amongst the concerns raised by CNE, the following 3 fundamental questions were put to the Council regarding the fee rate proposals it had set out within Pricing Strategy:

- *"On p.13 of the Pricing Strategy, the Council says that the information it obtained included dependency tool information. Insofar as the answers to the above questions do not already address this point, please confirm whether the Council obtain actual information regarding actual staffing levels, and what (if any) enquiries did the Council make so as to ascertain the actual levels and costs of agency staff within these staffing levels.*
- *On p.13 of the Pricing Strategy, the Council refers to certain costs which it says were included within its analysis. Of each of the cost heads analysed by the Council, please identify which contain actual costs taken from care homes within North Tyneside (stating which period(s) those costs relate) and which were analysed by reference to national data, identifying the precise source of that data.*
- *On p.14 of the Pricing Strategy, the Council states: "The Care Fund Calculator tool takes account of the effective and efficient operation of care home provision and includes cost indicators based on information sourced from services and provisions around the country. The tool also takes account of local cost indicators and markets. This is used to arrive at one weekly cost – the 'blended rate'." How the Council has done this is opaque. Until we fully understand the source of the information used by the Council and how it was obtained, it is impossible for us to formulate a definitive response which addresses the accuracy of the information the Council has used and its relevance to the costs of delivering care in North Tyneside."*

41. CNE suspected that national costs data had been used which did not accurately reflect the actual local costs in North Tyneside and/or costs had been omitted and/or the data used was stale and/or the calculations by the Council were inaccurate. It struck CNE as

being reasonable to request this information, not only because (as I have state above) the Council within the Consultation Documentation said it would provide all information that was known and the fact that the Council had expressly invited (within the first of the consultation questions) responses on whether all relevant costs had been taken into account, but also because this information was critical to understanding the reason(s) why the Council's fee proposals within the Pricing Strategy were so far below what the local evidence was demonstrating regarding the fees that care homes in North Tyneside required in order to meet theirs costs and operate sustainably.

42. As to CNE's response to the second consultation question which I have referred to above at paragraph 31 of this witness statement³; within CNE Consultation Response (at paragraph numbered 32 and following) we raised the question/concern as to why the Council had considered it necessary to calculate the actual costs of residential care home services and pay a fee rate based on those costs, but it had not considered it equally necessary to calculate the actual costs of providing dementia services. In doing so, we pointed to the evidence contained within the Cost of Care Report which demonstrated a shortfall in the Council's proposed dementia care fees of £76.89; again, this figure being the net figure before any consideration is given to profit. As set out within paragraph 35 of the Consultation Response, the Council had only made provision within the Care Fund Calculator for 2 hours of care for dementia residents, whereas the evidence within the Cost of Care Report taken from care home providers in North Tyneside, was that those residents suffering with dementia required 7.21 hours of care more than those residents with general residential care needs.

(D) The absence of information about the Care Fund Calculator Model

43. The Council did not provide the information requested within CNE's Consultation Response, so I wrote to Mr Scott Woodhouse of the Council on 12 November 2019 to chase a response. This email and the subsequent attempts I made to elicit this information are referred to within the Judicial Review Pre-Action Protocol Letter sent by David Collins Solicitors to the Council on 15 July 2021 (KG1, enclosure 38, page 241). In an attempt to reduce the Court's reading time, I do not propose to duplicate what is set out at paragraphs 34 to 61 of the Pre-Action Protocol Letter LBA. Rather, I confirm I have read those

³ i.e. "The draft Pricing Schedule links the cost of dementia/EMI care to the baseline residential care cost. In your view, is this an appropriate method of calculating the costs of dementia/EMI care? If not, please explain why, and set out what you believe to be a more appropriate methodology, and explain why in your view, this is more appropriate."

paragraphs and that their content is true to the best of my knowledge and belief. Those paragraphs summarise my persistent attempts to obtain information from the Council regarding the costs data and calculations contained within the Council's Care Fund Calculator, including at meetings with the Council, and the inadequate responses/answers from the Council. I would like to draw particular attention to the following:

43.1. As noted at paragraphs 39 and 40 of the Judicial Review Pre-Action Protocol Letter, progress with the Council's fee rates stalled from April 2020 to November 2020 due to the onset of the Covid-19 pandemic.

43.2. During the meeting I had with Ms Heslop of the Council on 12 March 2021 (as referred to within paragraph 45 of the Pre-Action Protocol Letter), Ms Heslop informed me that "the Council did not accept the CNE Model". I asked why, but she was unable to give an explanation, then or subsequently. I should also say the Cost of Care Report is not a costs model per se; i.e. it is not a costing toolkit taken off the shelf into which certain data is inputted, with underlying assumptions contained within it. Rather and as I have said above, the Cost of Care Report contains assimilated cost calculations taken from actual care home costs in North Tyneside. Even in respect of Return On Capital Employed figures, the Cost of Care Report uses actual rent paid by care home providers in North Tyneside, actual build costs in North Tyneside and actual interest rates paid by providers in North Tyneside.

43.3. Within the Council's letter of 15 March 2021, the Council informed me that "If there are mathematical errors [in the CFC], then they will be amended" and "... the Authority is willing to review any elements in calculating the fee which have been incorrectly calculated ...". See paragraph 47 of the Pre-Action Protocol Letter and also paragraph numbered 3 of the Council's letter to CNE dated 24 August 2021 (KG1, enclosure 43, page 286).

43.4. In the intervening period since the Council published the Consultation Document, the Council paid interim fee rates. These fees are set out below:

Residential	Interim	2019/20	2020/21
Rates Paid			
Grade 1		587.09	616.44
Grade 2		551.09	578.64

Grade 3	516.32	542.14
Grade 4	487.35	511.72
Dementia		
Grade 1	607.93	638.33
Grade 2	574.14	602.85
Grade 3	536.89	563.73
Grade 4	503.00	528.15

43.5. The Council continued to pay these rates until a matter of days ago, when it started to implement the uplifts and back payments as per the fee rates set out within its decision letter of 6 July 2021. However, the Council has not amended those figures to address the arithmetical errors I refer to in paragraph 54 (vi.) below.

43.6. During a meeting with the Council on 26 March 2021 (as detailed at paragraph 52 of the Pre-Action Protocol Letter) it was agreed that the Council would focus on answering 10 questions raised by CNE. These were:

1. *Staffing Costs – The only actual data used by the CFC model was that of obtaining staffing ratios/hours from the dependency tool supplied by the Council which covered only care/nurse hours. The Council were to supply how the CFC arrived at “Other Care – Support Staff Costs” as this was much lower than L&B/ADASS/NTCHOA models.*
2. *Blended Fee Rate – The CFC has only produced a blended fee rate (Res + EMI). The Council were to supply the % splits so the Association could compare the rates to other CoC*
3. *Agency Costs – The council were to provide answers as to why there was no allowance for agency costs within the CFC model.*
4. *Maintenance of Capital Expenditure – This cost appears to be omitted. The Council were to clarify where this cost has been included.*
5. *ROCE – The Council would supply further information on ROCE as the information received so far is limited and when looking at rental costs and simple ROCE calculations, the allowance in the CFC model is wholly insufficient.*
6. *One to One Hourly rate – The Council were to supply how they arrived at this rate*
7. *Dependency tool information used – We have now requested members send me the information it supplied to the Council in April 2019. Some members have informed me that they did not send any information while others have sent limited information. There doesn't seem to be any uniformity on the information supplied. We would ask that the Council provide the information it received from our members. We will seek authorisation from members if you require. We would expect this information to cover the majority of the 30 homes your report covers.*
8. *Period Covered – Please provide the period to which the dependency tool information relates? We do not believe that this question has been answered.*

9. *Actual Costs – We have requested that the Council inform the members for each of the cost heads analysed by the Council, identify which contain actual costs taken from care homes within North Tyneside (stating which period these costs relate) and which were analysed by reference to national data, identifying the precise source of that data. We do not believe the Council have provided this information and it is not available on page 13 of the pricing strategy as stated by the Council. We would ask for this information to be provided.*
10. *New Cost in new Contract – Although the Council have stated they believe there are no major changes to the new contract, it does not state if it believes there are any cost implications in the new contract. We would request the council to clarify whether the new contract any new cost implications for providers?*

43.7. The Council provided its response to these questions within an email on 7 April 2021 from Mr Woodhouse (KG1, enclosure 25, page 188). However, as stated at paragraph 53 of the Pre-Action Protocol Letter:

- *“The Council failed to answer what staff costs fall within the Council’s allowance of £19.93 within its CFC calculations for ‘Other Care’ costs outside of carer costs.*
- *The Council’s CFC calculations produced a blended cost of care and fee rate of £572.60 which included costs for residential and EMI. The Council failed to provide the percentage split it had applied between residential and EMI in arriving at this blended rate.*
- *The Council confirmed that no provision had been made for agency costs, notwithstanding (a) the Claimant’s evidence that agency costs ran at £37 per resident per week; being a cost which the Council did not dispute were being incurred by providers due to staff shortages; and (b) the Council’s allowance (albeit in part only) for agency costs in the provision of 1:1.*
- *The Council’s answer regarding the maintenance of capital expenditure was and continues to not be understood.*
- *The Council answered by saying that the issue of ROCE “...is not seen as an area for the Council to involve itself” and that “The appropriateness of the approach to ROCE used has been benchmarked against other Council’s and been found to be generating a value consistent with other Councils”.*
- *The Council failed to identify which of its actual costs information was taken from care homes operating in North Tyneside and which of its information was taken from national data and identifying the source of that national data.”*

43.8. As referred to at paragraph 55 of the Pre-Action Protocol Letter, I sent an email to the Council on 9 April 2021 (in advance of a meeting with Ms Heslop, Mr Woodhouse and Mr Gulliver of the Council) within which I set out CNE’s concerns regarding the Council’s approach to Return On Capital Expenditure within its Care

Fund Calculator model. Those concerns were as follows (I have added footnotes to identify the source of the figures referred to in the email):

“... please find below my understanding on how the ROCE was calculated within the Council calculations and how it differs to the CNE Cost of Care.

For ease of reference, please find below the extract from the “Proposed Pricing Strategy”:

3.5 Property costs (ROCE) For residential cases, the return on capital employed (ROCE) calculation uses a 3-year rolling average of house prices per local authority district and property type. We have updated the calculation to use the most recent year’s data as follows:

For England and Wales using Land Registry data to Dec 2018.

For Scotland, using Registers of Scotland data to Nov 2018.

A ROCE rate of 13% has been used in the Care Funding Calculator. This rate is applied to the value of the property as defined above. This is a blended rate based on an assumption that the provider organisation will have financed the purchase of the property through a combination of 20% commercial investment and 80% mortgage. The 20% investment assumes a requirement for a 15- 20% return, the 80% mortgage, a requirement for an 8% return. This methodology was recommended following research commissioned from the University of West England (UWE).

A weighting has been applied to Land Registry data on which the ROCE is calculated of 55% of average for cost group 1, 60% of average for cost groups 2, 3 and 4. This decision is based on 2 factors: i. research with providers whose median stated costs for ‘mortgage’ or ‘rent’ plus ‘profit’ was usually lower than the amounts indicated by the average costs using random test locations.

ii. an expectation that providers of services will seek cost-efficient properties in an area from which to deliver services. These properties are likely to be below average value compared to the district as a whole.

The ROCE is divided equally between the number of service users in the home. ROCE replaces the elements of ‘profit’, ‘mortgage’ and ‘rent’ where these have been used in other costing model

Issues we had with methodology

1) The methodology used by CFC uses a weighting of house prices from the land registry. This has nothing to do with care homes build or rental costs?

2) Maintenance of Capital Expenditure - As mentioned at our meetings, there is no allowance for maintenance of capital expenditure (whether that be building, fixtures, plant or vehicles) in these calculations. We don’t believe this was mentioned in the op costs, so it is fair to point out that it is not included in either.

3) At our meetings, Nathan mentioned that if you total up the op costs and capital costs together, the Council model and the Association actual costs are not that far away. This is incorrect. The total can be analysed as follows:

Op Cost Total: £159.42

ROCE total: £63.98 (this includes a return for profit)

TOTAL: £223.40⁴

Association Model: (using lowest possible figures)

Op Cost Total: £137.02

MoCE: £14.36

ROCE total: £100.40 (not including profit – shown separately in CoC)⁵

Profit: £37.13⁶

TOTAL: £288.91

4) Rental Costs - As demonstrated in the Association cost of care, care homes which are leased are showing a cost in excess of the ROCE provided⁷

5) L&B and ADASS Models - As previously mentioned, on page 12 of the Council Pricing Strategy, it shows ROCE being used for both the ADASS and L&B models as £63.08. I'm not sure why the Council would use this figure when the actual figure or methodology of those models should be used. I presume this is because the CFC figure is much lower.

I would hope the Council look further into the rationale of the methodology being used."

43.9. As detailed at paragraph 61 of the Pre-Action Protocol Letter, so as to try and further assist the Council's understanding of the concerns held by CNE regarding the Council's Care Fund Calculator cost calculations, I sent a detailed note to the Council on 7 May 2021, restating our concerns about the approach to other staffing costs in the Care Fund Calculator Model. As stated within with Pre-Action Protocol Letter, my note highlighted:

"... the provision within the CFC of £19.93 to cover the costs of a chef, kitchen staff, domestic cleaners, laundry assistants and other staff falls significantly

⁴ These figures were taken from the final section of the table at Appendix 5 (p.27) of the Proposed Pricing Strategy.

⁵ These figures were taken from Appendix 2 to the Cost of Care Report.

⁶ This represents a profit margin of 6% and is taken from Appendix 3 to the Cost of Care Report.

⁷ This is set out in Appendix 1 to the Cost of Care Report.

below the actual costs. This compares with the actual cost data collected by the Claimant which demonstrated the cost to be £66.46 in March 2019. The only explanation for this is that either the Council has omitted costs from its calculation of £19.93 and/or its conclusion is arithmetically wrong (for example, it has made an error in uplifting the Living Wage costs). Hence why the Claimant has pressed so much for the Council to disclose the specific staff costs that it has taken into account in arriving at this figure. Notwithstanding, this information has still not be provided.”

44. The correspondence summarised at paragraphs 34 to 61 of the Pre-Action Protocol Letter appears at KG1, enclosures 11 to 32, pages 139 to 214.

(E) The Decisions Under Challenge

45. On 6 July 2021, the Council sent a letter to all care home providers operating care home services for the elderly in North Tyneside. Within that letter the Council announced the following:

- the Council’s decision setting care home fees (retrospectively) for the year 1 April 2019 to 31 March 2020;
- the Council’s decision setting care home fees (retrospectively) for the year 1 April 2020 to 31 March 2021; and
- the Council’s decision setting care home fees for the year 1 April 2021 to 31 March 2022 (retrospectively in respect of the period 1 April to 6 July 2021).

46. A copy of the Council’s letter of 6 July 2021 appears at KG1, enclosure 37, page 238.

47. The fee rates previously paid by the Council during 2019/20, 2020/21 and since 1 April 2021 were based upon interim rates, which I set out later in this statement. As is detailed within the Council’s letter of 6 July 2021:

- The interim fee decision of the Council had been to increase care home fee rates from 1 April 2019 by 4% above pre-April 2019 rates. The decision of 6 July 2021 was to increase the pre-April 2019 rates to the rates set out in the Council’s Proposed Pricing Strategy (set out above). This equated to an increase of 4.6%.

- The interim fee decision of the Council for the year 1 April 2020 had been to increase fees by 5% above the rates set out in the Council's Proposed Pricing Strategy.
- The Council's decision for 2021/22 was to increase fees by 2.16% above the new 2020/21 rates, backdated to 1 April 2021. The 2.16% increase was said to have been derived by reference to the 2.18% increase in the National Living Wage and the 2.10% increase in the Consumer Price Index.

48. Within an email dated 19 July 2021 to David Collins Solicitors (acting on behalf of CNE), the Council stated that its decisions set out within its letter of 6 July 2021 were made on 22 June 2021 (KG1, enclosure 53, page 326). Within its Response to the Judicial Review Pre-Action Protocol Letter on 30 July 2021, the Council stated again that this was the date of the decisions (KG1, enclosure 41, page 277).

49. As I mentioned above, it is common for local authorities to pay different fee rates depending on the category of care in question; these categories being residential, residential with dementia, nursing and nursing with dementia. The position in North Tyneside is that the Council operates different fee rates for each of these care categories, with each category itself having different fee rates depending on the banding rate into which each individual care home is assigned by the Council banding scheme. These various fee rates payable by the Council following its decisions of 22 June 2021 were detailed within 'Appendix 1' enclosed by the Council with its letter of 6 July 2021 and are reproduced below for ease of reference:

Residential Care - general	2019/20	2020/21	2021/22
Band 1	£590.37	£619.89	£633.28
Band 2	£554.35	£582.07	£594.64
Band 3	£519.38	£545.35	£557.13
Band 4	£490.24	£514.75	£525.87

Residential Care - dementia	2019/20	2020/21	2021/22
Band 1	£612.21	£642.82	£656.71
Band 2	£574.86	£603.60	£616.64
Band 3	£538.60	£565.53	£577.74

Band 4	£508.38	£533.80	£545.33
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50. Save for two tiny differences, the 2019/20 figures in the 6 July 2021 letter are identical to those at p.15 of the Proposed Pricing Strategy (which were the product of the Care Fund Calculator):

Residential Care - general			
	Proposed	Pricing	Letter of 6 July 2021
	Strategy		
Band 1	£590.57		£590.37
Band 2	£554.35		£554.35
Band 3	£519.38		£519.38
Band 4	£490.24		£490.24

Residential Care - dementia			
	Proposed	Pricing	Letter of 6 July 2021
	Strategy		
Band 1	£612.42		£612.21
Band 2	£574.86		£574.86
Band 3	£538.60		£538.60
Band 4	£508.38		£508.38

51. At a meeting between CNE and the Council on 30 June 2021, Mark Longstaff (the Council's Director of Commissioning and Asset Management) confirmed that "The offer reflects the figure the model produced" and "The data was fed into the model and [the offer] was the figure that the model kicked out" (KG1, Enclosure 40, page 272).

52. Within its letter of 6 July 2021, the Council informed care providers:

"In considering the above percentage increase in 2021/22, the Authority is mindful of other additional support and resources coming into the social care market and provision to deal with COVID-19, specifically there are:

- *Additional grant funding that is being made available to support providers with COVID-19 relate cost pressures, particularly aligned to Infection Control and*

Testing arrangements across a range of service areas (currently available to 30 September 2021), and

- *Continued access to free PPE through the National PPE Portal for CQC registered providers or via the Local Resilience Forum route for other providers. These are available until March 2022.*
- *In addition to this, the Authority is more than willing to have a specific 1:1 conversation with any care home provider that is experiencing financial hardship.”*

53. As at the date of this witness statement, 30 September 2021 remains the date on which grant funding for COVID-19 related costs pressures will cease. Examples of these additional cost pressures are seen in the need for increased staffing levels and increased reliance on agency staff to help cover these increased levels as well as increased staff absences; increased infection control measures; decreased occupancy and therefore decreased income, but without a corresponding fall in costs and so on. As Covid-19 appears here to stay, at least for the medium term, these costs will continue at the very least throughout 2021/22.

(F) The decision-making process

54. As I explained at paragraph 34 above, the Council had led CNE to understand that the decision-making process would be accompanied by two procedural safeguards: first, that the Pricing Strategy would not be finalised until the consultation exercise had been completed and, second, that the decision on the Pricing Strategy would be taken by the Cabinet, rather than by the officers who formulated the Pricing Strategy. I was therefore surprised to receive the letter of 6 July 2021, which recorded that the prices had been set even though the consultation on the Pricing Strategy had not concluded and the Pricing Strategy had not been put before the Cabinet for decision.

55. This point was raised in the Judicial Review Pre-Action Protocol Letter sent by David Collins Solicitors to the Council on 15 July 2021 (KG1, enclosure 38, page 248). In its Response to the Pre-Action Protocol Letter dated 30 July 2021 (KG1, enclosure 41, page 279), the Council stated:

“Paragraph 70 of the Letter before Claim sets out that it is believed that the Council has failed to follow the process as set out within the Consultation Document, insofar as the Consultation Document informed interested parties that notwithstanding delegated authority, it would refer any decision regarding fee setting to Cabinet. It is

accepted that this did not happen and the decision regarding fee setting was authorised by the Head of Health, Education, Care and Safeguarding using delegated authority. It was considered that the decision regarding fee setting may require Cabinet approval and this was communicated with the Consultation Document; the Council wished to be transparent with interested parties that such a decision may be required. However, due to the relatively small change within the fees being set, it was considered that such a decision was not required, and it was appropriate to be made using the appropriate delegated authority. The overall Pricing Strategy will be considered by Cabinet. It is not accepted that the use of delegated authority instead of Cabinet approval insofar as the decisions regarding fee setting amounts to a failure to consult appropriately or to follow the process as set out in the Pricing Strategy document.”

56. I confess that I do not understand what point there would be in the Cabinet considering the Pricing Strategy document after it has been implemented by officers through the decisions recorded in the 7 July 2021 letter. As the Consultation Document explained, the Proposed Pricing Strategy would determine the rates set by the Council. This was reiterated on 29 January 2021, when Mr Woodhouse wrote to me stating:

“... I was clear at the Provider Forum that the application of the quality monitoring process and how it fed into fee levels was an area that was part of the fee setting and the consultation that had recently been undertaken. This would be subject to a Cabinet report and I would not pre-empt the outcome of that report and the decision that Cabinet might or might not take.”

(G) Further attempts to understand the Care Fund Calculator methodology

57. The Council contended within its Response to the Pre-Action Protocol Letter dated 30 July 2021 (a copy of which appears at KG1, enclosure 41, page 279) that: “All questions and queries raised by [CNE] in relation to the original response to the Pricing Strategy have been responded to ...”. This was simply not correct.

58. In an attempt to try to resolve this, I wrote to the Council on 9 August 2021. A copy of that letter appears at KG1, enclosure 42, page 284. Within that letter:

- I again sought clarification as to which costs used within the Care Fund Calculator were based upon national data and which were based upon local data.
- I referred to CNE’s concerns that there were arithmetical errors in how the Council had applied the uplifts referred to in its decision notification letter of 6 July 2021 to the interim rates.

- I repeated CNE's request that the Council identify what it did not agree with in the Cost of Care Report.
- I requested a copy of the Council's impact statement for when occupancy support is withdrawn; i.e. the support being provided to care homes due to the fall in their occupancy levels as a result of the Covid-19 pandemic.

59. Within its letter of reply dated 24 August 2021 (KG1, enclosure 43, page 286), the Council:

- Restated its belief that it had responded to all CNE queries, but stated that if there were any further queries, they must be put to the Council within 5 working days.
- Said it would need to clarify which costs within the Care Fund Calculator were based on national data and which were based on local data, following which it would revert.
- Said it had set a sustainable fee by "recourse to the model used" and that "there was no obligation to take into account factors in other models which may be available in the market".
- Said that "... the information received from providers and fed into the model was based on whole home information and was not split by care type, i.e. general or dementia care. The Authority recognised the need to include and maintain the current fee differential for dementia care and this is included within the fees determined".
- Said that the impact statement I had requested for when occupancy support is withdrawn "is irrelevant to the setting of the care fee".
- Provided the care home bed occupancy figures for the months of April to July 2021.

60. As requested by the Council within its letter to CNE dated 24 August 2021, CNE wrote to the Council on 1 September 2021 (KG1, enclosure 44, page 290) addressing (amongst other things) the information CNE had since the Consultation Document been seeking from the Council and which had not been provided, despite the Council's claim that it had done so. I broke this information down into the following 6 categories:

- (1) Other Care - Support Staff ('OCSS')
- (2) Dependency Tool Information
- (3) National/Local Data Used
- (4) Agency Costs
- (5) Maintenance of Capital Expenditure
- (6) Return On Capital Employed (ROCE)

61. In respect of each of these information categories, I prepared and enclosed a document entitled 'Document 1', within which I detailed the dates when CNE had made the requests for information under each of the heads. I further explained why the provision of the information was so important. A copy of 'Document 1' appears at KG1, enclosure 45, page 294.

62. In response to the Council's request contained in its letter of 24 August 2021 for the submission of any further queries, the following queries were put to the Council within CNE's letter of 1 September 2021:

(i.) Please provide the above information that we have (as outlined above and detailed within Document 1) requested on countless occasions and which has still not been provided.

(ii.) Please confirm exactly what costs (for example, chefs/cooks/kitchen etc.) and their amounts have been taken into account in the make-up of the OCSS. This is important so we can identify which costs are missing. If this is not possible, because you do not know what the costs details are which make-up the OCSS, then please confirm in clear terms that you do not know.

(iii.) In relation to the above noted OCSS cost headings (i.e. Chefs/cooks, kitchen/catering assistants, domestics, laundry assistants, other staff (including handyman)), please confirm that if these costs are not included within the OCSS costs, they are not taken into account elsewhere within the CFC. If they are taken into account elsewhere, please be clear as to where and precisely how they are taken into account and what costs are attributed to each of these heads.

(iv.) Please provide a copy of the actual dependency tool used by the Council to collect dependency information from care home providers. As I have previously stated, the feedback we have received is that there was no consistent approach taken in gathering this information. If you are not able to provide this information directly, please could you forward this directly to the provider and confirm when this has been completed.

(v.) In request 2d, we asked for you to "identify costs within the model where you hold no information", i.e. where the Council does not hold any local information or any information at all. Your statement "All relevant information was provided and input into the model as appropriate ..." fails to answer this request. Please answer the request properly by identifying all costs within the model where you hold no information.

*(vi.) In response to request 3, you say that "fees will be reviewed and any mathematical errors corrected at this time ensuring there is no detriment any Provider". Please confirm what errors the Council has now identified. To assist you in this exercise, I have calculated the errors within the attached document (**Document 5 - 'North Tyneside Rates Differential'**). **By 4pm on 6 September 2021**, please confirm these corrections will be made and the necessary re-*

adjustments and back payments will be made to care home providers and by when.

(vii.) In response to request 4, you say “there is no obligation to take into account factors in other models which may be available in the market”. The costs information provided to the Council by CNE does not derive from ‘another model available in the market’. This is not a dispute about models per se, but about the accuracy of the Council’s cost calculations and the Council’s failure to use local rather than national data, and its failure to engage with local care home providers on the actual local costs data they have provided. It is clear from the judicial review proceedings brought by EMCARE against Leicester City Council in 2011, that the Council is required to engage with the detail of the evidence CNE and its members have produced, that evidence being local data regarding providers’ actual costs and which is highly relevant to the presence of errors within the Council’s calculations, the extent of its enquiries and the sufficiency of its fee rates. Accordingly, we again request that as the Council has said it does not accept the costs evidence submitted by CNE, the Council identifies precisely what parts of that evidence it does not accept and why. The Council is required to provide this considered response.

(viii.) In your response to request 7, you say that the impact statement for when occupancy support is withdrawn is “irrelevant to the setting of the care fee”. This is a surprising statement given the obligation the Council has under section 5 of the Care Act 2014 to ensuring the sustainability of the market, even in circumstances where that market is not operating effectively. Regardless of whether you consider such an impact statement to be relevant, please confirm if such an impact statement was undertaken and if so, when. If one was prepared, please provide a copy of it.

(ix.) As I understand it, the CFC was designed for use during standard reviews of placements in cases which relate to the placement of people with learning disabilities, typically under the age of 65 years. In these cases, the CFC was designed to operate on a bespoke basis for each individual review to assist in negotiations to determine the fee of individual care packages and to assist local authorities to save money. The CFC is not generally regarded as being appropriate for use in the case of older people’s services, let alone to determine a sustainable market wide fee rate for those services. Further, I understand that the CFC has not been updated since 2013 and indeed, is no longer used by iESE who designed it. They have since 2013 developed the ‘CareCubed’ to replace the CFC. In light of this, please explain the basis upon which the Council considered the CFC to be appropriate for use in the calculation of providers’ actual costs of delivery care to the over 65s in North Tyneside. Please confirm what enquiries the Council made into the suitability of the CFC for this purpose prior to its decision to use it. Insofar as any reports or internal documents were produced for these purposes, please provide a copy of them.

63. As noted within query (vi.), I produced and enclosed a schedule (labelled ‘Document 5’) referred to in ‘Document 1’ enclosed with my letter of 1 September 2021 which detailed the errors made by the Council in applying the uplift increases referred to in its decision notification letter of 6 July 2021, to the interim rates for 2019/20, 2020/21 and 2021/22. To

the best of my knowledge, as at the date of this statement, the Council has still not amended these errors, or explained why it does not believe any errors to have been made. A copy of Document 5 appears at KG1, enclosure 49, page 310.

64. The Council replied by letter on 6 September 2021 (KG1, enclosure 50, page 312). Within that reply:

64.1. In response to the queries raised by CNE at paragraphs numbered (i.) to (i.x) within its letter of 1 September 2021 (see paragraph 54 above), the Council stated:

64.1.1. In response to query (ii) (support staff) – the Council stated that it “has no further information” as to how the Care Fund Calculator generated a figure of £19.93/week for support staff (other than administrative staff).

64.1.2. In response to query (iii) - that it “has no further information” as to whether providers’ costs in connection with chefs, cooks, kitchen/catering assistants, domestics, laundry assistants, and other staff (such as handymen) are accounted for anywhere within the Care Fund Calculator.

64.2. In light of these responses from the Council, I understand that the Council simply does not know how the figures in the decisions of 6 July 2021 were generated. To use Mr Longstaff’s term, the figures were simply “kicked out” by a black box.

65. On 7 September 2021, CNE sent a letter in reply to the Council’s letter of 6 September 2021 (KG1, enclosure 52, page 324). I asked if the Council would be prepared to provide CNE with a fully executable copy of the Care Fund Calculator, so that CNE could at least try to work out for itself how the figures were generated.

66. In response, the Council has merely provided me with a link to IESE Limited’s website, which is the company that designed the Care Fund Calculator (now called the Care Cube). This link does not give CNE access to the electronic version of the model used by the Council and does not enable me to understand how the figures used in the 6 July 2021 decision were generated.

67. I would make one further observation about the Care Fund Calculator. As I pointed out in CNE’s letter to the Council of 1 September 2021, I understand that the Care Fund Calculator was designed by IESE for use by local authorities in their negotiation with care

providers over fees for residential care and supported living placements in the case of adults under the age of 65 years (i.e. adults of working age) who suffer from learning disabilities ('LD'). To the best of my knowledge, LD care packages are not ordinarily commissioned at a pre-determined market rate under broader framework agreements as happens in the case of adults over the age of 65 years. Rather, LD packages are commissioned on a bespoke basis, with fees being determined by reference to the actual needs of the adult in question. I have looked at IESE's website (following the link the Council has provided to me) and I see there that they describe the CareCubed as being "... a secure online tool that helps calculate the fair cost of specialist care placements". This reference to specialist care placements affirms that the calculator was not designed for use in care for the elderly, particularly with a view to setting a rate for the entirety of that market with a view to its sustainability, as opposed to bespoke packages of care for individuals. At KG1, enclosure 54, page 332, I append a copy article published in CommunityCare about the Care Fund Calculator. Although the article is from 2012 it speaks to the use of the Care Fund Calculator's function in the field of LD placements and that it was "not recommended for older people's services". Given this ordinary use of the Care Fund Calculator/CareCubed, the Council has not explained why it consider it suitable as a model for setting its market care home fee rates for the elderly. The obvious question that CNE wishes to explore is whether the differences between the figures "kicked out" by the model and the evidence of local providers' actual costs is because the model caters to LD placements rather than elderly care home costs.

68. The Council's response in its letter of 6 September 2021 was that *"The Authority deems the model fit for purpose"*. Given that the Council does not understand why the model generates the figures it "kicks out", this appears to be blind faith on the Council's part.

Statement of Truth:

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed.....

Dated: 16 September 2021

KEITH GRAY FCCA

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Adult Social Care

Schedule of Rates – Care Home Provision – Older People (Published 6 July 2021)

Residential Care - general	2019/20	2020/21	2021/22
Band 1	£590.37	£619.89	£633.28
Band 2	£554.35	£582.07	£594.64
Band 3	£519.38	£545.35	£557.13
Band 4	£490.24	£514.75	£525.87

Residential Care - dementia	2019/20	2020/21	2021/22
Band 1	£612.21	£642.82	£656.71
Band 2	£574.86	£603.60	£616.64
Band 3	£538.60	£565.53	£577.74
Band 4	£508.38	£533.80	£545.33

NB – following are determined and set by NHS / CCG

Nursing and CHC	2019/20	2020/21	2021/22
Funded nursing care rate	£180.31	£183.92	£187.60
CHC top up	£80.00	£84.00	£85.81

Published and sent to care home providers on 6 July 2021

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Adult Social Care

Schedule of Rates – Care Home Provision – Older People (NEW)

Residential Care - general	2019/20	2020/21	2021/22
Band 1	£599.40	£629.37	£642.96
Band 2	£563.38	£591.55	£604.33
Band 3	£528.41	£554.83	£555.81
Band 4	£499.27	£524.23	£535.56

Residential Care - dementia	2019/20	2020/21	2021/22
Band 1	£633.57	£665.25	£679.62
Band 2	£596.22	£626.03	£639.55
Band 3	£559.96	£587.95	£600.65
Band 4	£529.74	£556.23	£558.24

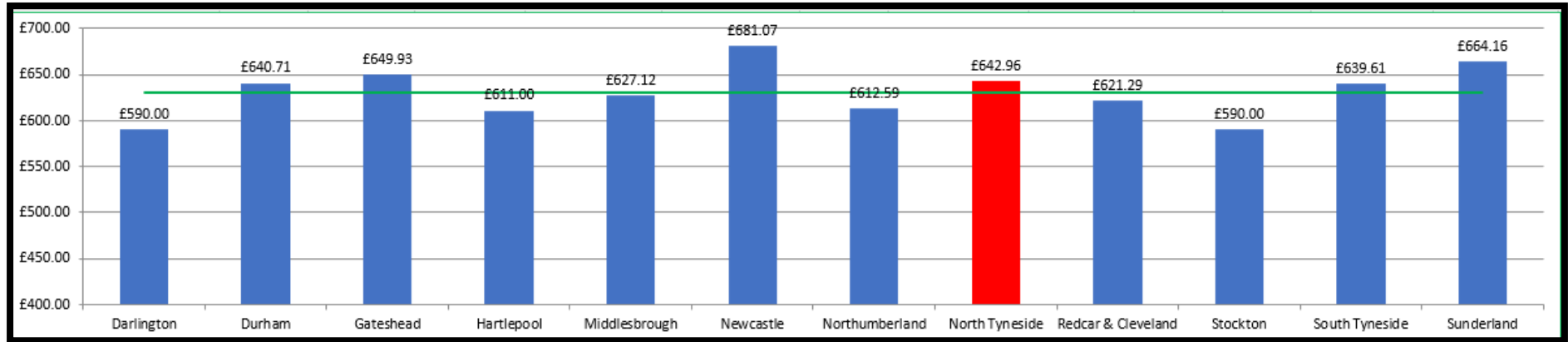
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Nursing and CHC	2019/20	2020/21	2021/22
Funded nursing care rate	£180.31	£183.92	£187.60
CHC top up	£80.00	£84.00	£85.81

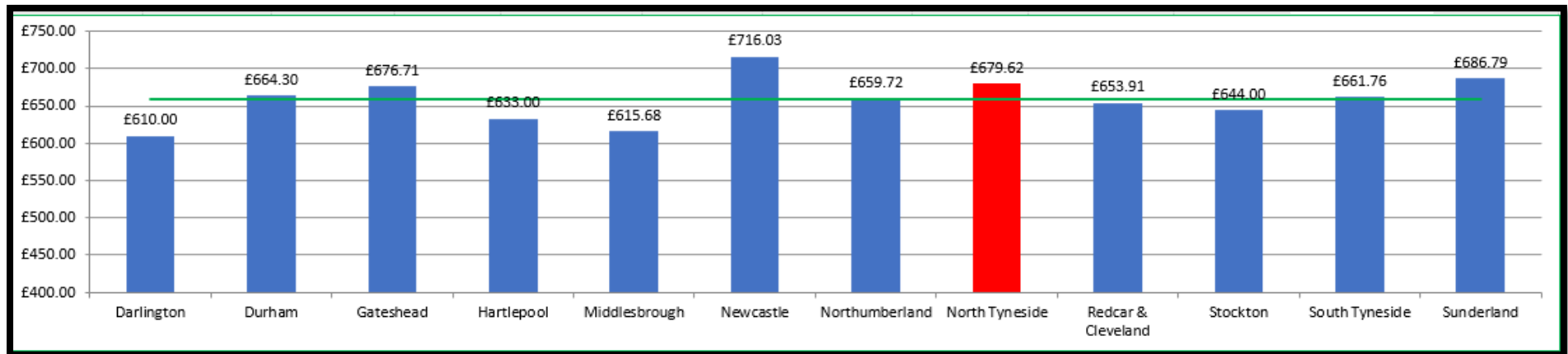
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Care Home Fee Levels – Regional Comparison – NE12 Local Authorities

General Care



Dementia Care



Requirement

Current 21/22

Ambition

2021/22

2022/23

2023/24

Price

Currently reviewed and negotiated annually

Agreed process for annual fee increases

Fee levels in place

Inflationary uplifts linked to contract

Inflationary uplifts linked to contract

Quality

Last QM exercise completed 2019

Annual assessment of quality, increased quality

Transitional quality monitoring assessment

Review QM process, banding levels and scores for each

Further review banding levels and scoring

Capacity

Over provision, excess beds, 19% = 280 beds

Reduced voids / vacancies across market, agreed process for new entrants

Understand demand, we buy what we need

Understand demand, we buy what we need, legacy arrangements

Understand demand, we buy what we need, legacy arrangements

Contract

No signed contract in place

New three year contract in place

Procurement undertaken, new contracts in place

Contract in place, meets requirements

Contract in place, meets requirements

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North Tyneside Council

Quadrant, The Silverlink North,
Cobalt Business Park,
North Tyneside, NE27 0BY
Tel: (0191) 643 8089

Dear Provider,

We arranged meetings to engage with you on the forthcoming contractual arrangements and commissioning model for North Tyneside's Older People's Care Homes, thank you for engaging with us during this time. These engagement meetings have taken place over the last couple of weeks in which we shared with you a slide deck outlining our proposal and offered the opportunity for you to provide feedback on a series of questions during the call or via email following the meeting.

This engagement is an important part of shaping the upcoming contract. Your comments and feedback, therefore, are greatly appreciated and we acknowledge them all as we move forward with the next stage of developing the suite of contractual documents.

The engagement report attached gives a summary of your responses to the questions posed by us, and has informed our initial proposals, as outlined in the report.

The draft contract will be issued to you on the 13th of September 2021, on which you will have 10 working days (until 24th September) to provide any additional comments you may have.

If you have any queries, please get in touch via email at:

Lydia.ruddick@northtyneside.gov.uk

Kind regards,

Mark Longstaff

Director of Commissioning and Asset Management

Older People's Care Homes North Tyneside Feedback from Engagement Meetings

1. Overview

- Meetings were scheduled with 20 providers to engage on North Tyneside Council's upcoming commissioning intentions
- 13 providers gave feedback to us in the engagement meeting over Teams
- 5 providers gave feedback both via email and during the meeting on Teams
- All providers were sent the slide deck which explained the current position and engagement questions, and were offered the opportunity to respond via email

The topics we sought to engage on were quality, contract duration, bandings, and annual inflation. The following questions were posed to providers:

- Which quality monitoring option is preferred? Option 1 was a 80% service / 20% environment split and option 2 is a 90%/10% split.
 - Should CQC score be included in the quality monitoring tool?
- For contract duration, would you prefer 3 or 4 years?
- Are our proposed changes to bandings enough of an incentive to drive quality improvements?
- In terms of annual inflation, is 70% living wage / 30% CPI an acceptable uplift mechanism, and if not, are there better alternatives?

The responses to these questions have been collated and are summarised below. We have also added an 'initial proposal' underneath each engagement topic, which has been formulated based on the feedback. However, it should be noted that nothing is yet determined until the contract is finalised and the commencement of the procurement process.

Other themes that arose in the feedback are in Section 6: Other Feedback.

2. Quality

The majority of providers were in agreement with a change to quality monitoring, understanding the push toward a higher level of quality being conducive to a market who prioritise their clients.

Option 2, the 90%/10% split, was the preferred option, with 6 providers for this, against only two in preference of option 1. Reasons given for this were that quality of care and experience of customers were better indicators of overall quality than physical environment.

Not to include CQC ratings in the quality score was preferred by the most providers. The most common reason for this was that the CQC ratings can often have been awarded too far in the past to reflect current standards of quality in a care home.

Initial proposal: Option 2 for quality monitoring with no CQC rating weighting.

3. Contract

Overall, providers seemed pleased with the possibility of a longer-term contract. Not all providers answered the question on 3 or 4 years directly.

For those that did, a **3-year contract** was preferred by a large majority on the basis that the market can change significantly in this time period, and that 4 would seem a little too long given that arrangements have been annually agreed up until now.

Initial proposal: Duration of contract as 3-years, consideration being given to a +1 year extension.

4. Bandings

Many providers commented that this type of change to bandings is a good incentive to drive quality. However, there was **little consensus** on whether increasing the threshold for Band 1 to 90% was reasonable.

5 providers were comfortable with the proposed increase, however 5 felt that it would add too much pressure or is inappropriate, and that 90% for Band 1 entry is too high of a jump from 80% as it sits currently.

Initial proposal: Increase banding thresholds to drive quality, but up to only 85% for Band 1 in year one of the contract, before increasing to 90% in year two, so that providers have time to adjust to new banding system.

5. Annual Inflation

The proposed mechanism for annual inflationary uplift of 70% living wage weighting and 30% CPI weighting was a point of contention for some providers.

While 3 providers stated they would be comfortable with the mechanism, 5 providers disagreed with it on the basis that utility bills and insurance costs have accelerated at a higher rate than the mechanism could capture, complex needs are contributing to a higher cost of care, and wage increases in healthcare are often higher than average, particularly if care homes want to attract and retain staff.

However, we asked for **alternative options to consider** and only **one provider** gave a suggestion of an alternative index to explore.

Initial proposal: We are looking into alternative indexes which may be more appropriate for the care home market and we are exploring the possibility of using a basket of indicators with more relevance to care homes than those in the CPI tool.

6. Other Feedback

While the purpose of the engagement was to gather feedback on the four topics above, feedback from meetings also uncovered some additional themes.

Firstly, there was an ask for us to insert a clause into the contract that would allow for changes to contractual arrangements in the event of something unexpected occurring that would cause a material change in market costs. We are currently in discussion with our legal team to understand what a clause like this may look like and the parameters that would need to be put in place around it.

Secondly, some providers mentioned the base fee level needing to be set in advance of the final contract being distributed. A term will be added to the contract should the base fee change prior to the contract being entered into.

Lastly, providers stated they would like guidance and support in navigating the NEPO portal, where the tender documents will be issued. We will be providing guidance and support in the coming weeks.

Equality Impact Assessment (EIA)

The separate EIA guidance notes outline what should be included for each section. Please read them before you begin. If you have any queries, contact your Corporate Equality Group rep, or the Engagement Team on 643 2828.

1. Author, service area, date

Scott Woodhouse, Strategic Commissioning Manager Adults, People Based Commissioning Team, 8 July 2019

This EIA is updated December 2021 in line with the drafting of the report to Cabinet on 24 January 2021.

2. Who else has been involved in writing this EIA?

Adult Social Care, Finance, Legal

3. What proposal is this EIA assessing?

Pricing strategy for Adult Social Care for residential care provision for older people – 2019/20.

The Cabinet report follows on from the draft pricing strategy and the consultation that has happened as part of the process. Unfortunately the timescales on this have been extended due to COVID-19 and the delay on finalising the Cabinet report.

4. What is the purpose of your proposal and what is it expected to achieve?

The purpose of the proposal is to consider the development of a pricing strategy and set of baseline costs for the commissioning of residential care placements from the external care sector.

Each year the Authority is expected to agree a set of rates with care home providers and in doing so take account of the cost of providing the care being delivered. Any annual increase in fees will take account general price increases, ie consumer price index and employee wage increases, ie national minimum wage or national living wage.

The pricing strategy set out proposals for:

- Setting a rate for residential care services for older people;
- Application of a differential rate for EMI / dementia care, using the residential rate as a basis for this;
- Application of a banded payment rate for different grades of residential care, following the completion of a quality monitoring visit and using the residential blended rate as a basis for this;
- Review of the quality monitoring tool and the scoring methodology;
- Determination of an hourly rate for additional 1:1 care, as determined following assessment and as detailed in individual support plans;
- Dealing with future inflationary price increases, including general cost increases and living wage increases;
- Formalising all of the above in a new three year contract / agreement.

The Cabinet report updates on progress against these areas and the work undertaken on setting the fees and the procurement arrangements

5. Is there any relevance to the aims of the public sector equality duty?

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Aim	Yes, No, or N/A	Details if 'yes'
<i>Eliminate unlawful discrimination, victimisation and harassment</i>	No	
<i>Advance equality of opportunity between people who share a protected characteristic and those who do not</i>	Yes	<p><i>The rates to be applied will be used transparently and equitably whether the service is commissioned by the Local Authority or a person makes their own arrangements. The rates will set a baseline for the Authority to determine its standard costs for residential care placements and can be used as a baseline for privately funded placements though it is acknowledged that care home providers may charge a different and higher rate for privately funded placements.</i></p> <p><i>This EIA aims to show that people with a protected characteristic are not treated with any disadvantage in comparison to service users without a protected characteristic.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
<i>Foster good relations between</i>	No	

<i>people who share a protected characteristic and those who do not</i>		
---	--	--

6. Analysis by characteristic

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
<i>Age</i>	<i>Neutral</i>	<p><i>The placements to be made within this pricing strategy will generally be for older people, ie people over the age of 65. The pricing strategy does change depending on the age of the individual. All placements for people over the age of 65 (ie pensionable age) will be paid at the same rate in each home.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
<i>Disability</i>	<i>Negative</i>	<p><i>All of the people in residential placements in care homes for older people will have eligible care and support needs as determined by the Care Act 2014.</i></p> <p><i>There is a differential / enhanced payment in place for people with a dementia as it is recognised this will likely result in increased costs for the provider to care and support for these individuals, ie increased training costs, wage costs or staffing levels (due to higher dependency overall). In addition to this there is a further payment for nursing services that is set at a national level by the Department of Health and Social Care and also a locally determined payment level for continuing healthcare clients. Payment for both of these is the responsibility of the NHS / Clinical Commissioning Group.</i></p> <p><i>The fixed rate needs to be evidenced to be accurately calculated and sustainable to providers delivering services in North Tyneside. There is a risk that choice of provider will be limited as some providers may not be able to deliver services at the rate set by the Local Authority. Many Providers have already made efficiencies and passed</i></p>

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
		<p><i>these on to the Local Authority.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
Gender	N/A	<p><i>The rates paid will be the same irrespective of client gender.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
Gender reassignment	N/A	<p><i>The rates paid will be the same irrespective of client gender reassignment.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
Marriage and civil partnership status	N/A	<p><i>The rates paid will be the same irrespective of client marital or civil partnership status.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect</i></p>

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
		<p><i>those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
<i>Pregnancy and maternity</i>	N/A	<p><i>The rates paid will be the same irrespective of client pregnancy or maternity status.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
<i>Race</i>	N/A	<p><i>The rates paid will be the same irrespective of client race.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
<i>Religion or belief</i>	N/A	<p><i>The rates paid will be the same irrespective of client religion or belief.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p>

Protected characteristic	Potential positive or negative impact?	Explanation and evidence
		<p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>
Sexual orientation	N/A	<p><i>The rates paid will be the same irrespective of client sexual orientation.</i></p> <p><i>The pricing strategy will apply for all state funded placements and does not affect those people with the ability to pay for their care privately. Where state funded, the pricing strategy does not impact on the charge / contribution paid by individuals – this will be determined separately by the financial assessment.</i></p> <p><i>There are no further identified impacts of the proposed rates and commissioning arrangements as set out in the Cabinet report.</i></p>

7. Have you carried out any engagement in relation to this proposal? If so, what?

The following information has been received and considered as part of the completion of this document:

- *Feedback from care home providers and Care North East – North Tyneside as part of the care home fee setting process over the last two years;*
- *Understanding of care home fees paid by other Local Authorities in the NE region;*
- *Information from 30 care homes for older people operating across North Tyneside on staffing levels and dependency ratings of the clients they have in their care homes;*

Furthermore, this document forms part of an open engagement / consultation exercise with all care homes for older people operating across North Tyneside and also with Care North East – North Tyneside (being the representative body of a majority of the care homes operating in North Tyneside).

Information from this will be reviewed by the Authority and will feed into final decisions on the pricing strategy and this Equality Impact Assessment.

In addition to this and as part of compiling information for the Cabinet report on 24 January 2022, the following has been undertaken:

- *Additional engagement and feedback from care home providers and Care North East (North Tyneside) on costs and delivery of care home provision in North Tyneside;*
- *Benchmarking of proposed rates against rates paid by other Local Authorities in the North East*

8. Is there any information you don't have that you need to find?

None

9. What actions are already in place, or will be taken, to remove or reduce potential negative impacts?

Action	Responsibility	Timescale
<i>Quality monitoring tool to be reviewed and updated, this tool is used to monitor provider performance</i>	<i>Commissioning</i>	<i>October / November in each year</i>
<i>Review of the pricing strategy on an annual basis – rates paid for care home provision, due to inflationary uplifts</i>	<i>Commissioning</i>	<i>November to February in each year and fed into the Authority's budget setting process where growth is required</i>
<i>Quality monitoring tool to be extended to include other areas of performance monitoring to measure impact of fixed rate setting.</i>	<i>Commissioning</i>	<i>October / November in each year</i>
<i>1:1 meetings with Care Providers and Care North East (North Tyneside) to understand the impacts and concerns affecting individual provider organisations</i>	<i>Commissioning</i>	<i>As required</i>

10. Are there any potential negative impacts that cannot be removed or reduced? If so, why is this?

None

11. Based on your conclusions from this assessment, what are your next steps?

The next steps relating to the implementing the fee rates are:

- *Feedback to care home providers following decision by Cabinet on 24 January 2022;*
- *Progress the procurement process for the award of new framework contracts with all care home providers operating in North Tyneside.*

12. How will the impact of this proposal be monitored after it is introduced?

Monitor and review through actions identified at 9 above

13. When will this EIA be reviewed?

Annually as part of the fee setting process and inflationary / cost increases, in February / March of each financial year leading into fees for the following financial year.

North Tyneside Council Report to Cabinet Date: 24 January 2022

Title: Review of North Tyneside's Tree Management Policy

Portfolio(s): Environment	Cabinet Member(s): Councillor Sandra Graham	
Report from Service Area:	Environment, Housing and Leisure	
Responsible Officer:	Phil Scott, Director of Environment, Housing and Leisure	Tel: (0191) 643 7295
Wards affected:	All wards	

PART 1

1.1 Executive Summary:

The Authority recognises the importance of trees in making the borough a great place to live, work and visit. The benefits of trees will be enjoyed not only by today's residents, but future generations.

Trees are an important part of the North Tyneside landscape but are also a sensitive and often emotive asset to manage. Trees also have a key role to play in achieving the Authority's carbon net zero 2030 policy ambition.

In December 2020, the Authority undertook a review of the Tree Management Policy (last reviewed in 2016), in consultation with the Cabinet Member for Environment. As part of this policy development, it was recognised that a new Tree Planting Strategy should be developed, in support of the Authority's commitment to Climate Emergency.

On 7th September 2021, the revised Tree Management Policy and draft Tree Planting Strategy was presented to the Overview and Scrutiny Environment Sub-Committee for consideration and comment.

The purpose of this report is to seek Cabinet's approval to adopt the revised Tree Management Policy and new Tree Planting Strategy.

1.2 Recommendation:

It is recommended that Cabinet:

1. approves the changes to the revised Tree Management Policy and introduction of the Tree Planting Strategy, as detailed in Appendix 1, 2 and 3 of this report.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 12th November 2021.

1.4 Council Plan and Policy Framework:

This report relates to the following priorities in the 2021-25 Our North Tyneside Plan:

- We will publish an action plan of the steps we will take and the national investment we will seek to make North Tyneside carbon net-zero by 2030.

1.5 Information:

1.5.1 Background

The Authority's green spaces provide important recreational areas for communities to enjoy and bring benefits for physical health and emotional wellbeing. Trees are an important part of the borough's landscape and are a sensitive and sometimes emotive issue to manage.

The Authority has responsibility for the management and maintenance of approximately 141,000 trees across the borough. This includes trees in open spaces, parks, cemeteries and woodland areas. Every year, the Authority receives hundreds of tree related enquiries relating to requests for pruning, tree removal, tree planting and the removal of leaf litter.

Trees make a valuable contribution to both wildlife conservation and the protection and development of a variety of habitats. They contribute to the visual landscape by softening the shape of the built environment and can positively affect property values. Trees and woodland areas also play a crucial role in the carbon cycle, acting as sinks (absorbing CO₂ from the atmosphere) and stores (retaining carbon in trees and soils) helping to improve air quality and reduce the impact of flash flooding. They also protect soil from erosion and reduce sediment run-off.

In 2009, the Authority introduced a Tree Management Policy. The policy is a framework which sets out how the Authority protects and manages its trees. It is also a reference point to enable a consistent approach towards tree management. The policy was reviewed in 2010 and again in 2016, to take into consideration quality of life issues and to include a comprehensive list of tree species recommended for specific land types or locations.

The policy takes into consideration the Authority's Biodiversity Action Plan. In relation to biodiversity, trees provide a stable eco-system where wildlife such as birds, animals, insects and plants thrive. The policy also takes into consideration other sustainable development policies, which sets out management objectives for managing specific areas such as open spaces, schools, cemeteries, housing estates and parks.

1.5.2 Climate Emergency

In July 2019, full Council declared a Climate Emergency, setting a target to reduce the carbon footprint of the Authority and the borough by 50% by 2023, and to be carbon neutral by 2050.

Subsequently, in further acknowledgement of the urgency of the Climate Emergency, the refreshed Our North Tyneside Council Plan 2021-25, approved by full Council in September 2021, included the following ambition: “We will publish an action plan of the steps we will take and the national investment we will seek to make North Tyneside carbon net-zero by 2030.”

Protecting existing trees and increasing tree planting, woodland and canopy cover will form a key part of the carbon net-zero 2030 plan that Cabinet will consider in 2022.

1.5.3 Policy Review

In December 2020, a working group of council officers was established to review the Authority’s existing Tree Management Policy. As part of this work, changes were made to the policy. It was also recognised that a new Tree Planting Strategy should be developed, to support full Council’s declaration of a Climate Emergency.

In July this year, the Authority, together with other Local Authorities in the region including Newcastle, South Tyneside, Sunderland, Gateshead and Durham, was successful in securing funding to establish a North East Community Forest, with the ambition to plant 500 hectares of woodland by 2025. This funding supports the objectives set out in the Tree Planting Strategy.

On 7th September 2021, the refreshed Tree Management Policy and draft Tree Planting Strategy was presented to the Authority’s Environment Sub-Committee for comment and consideration.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To approve the proposed Tree Management Policy changes and the introduction of the Tree Planting Strategy.

Option 2

Not to approve the proposed Tree Management Policy changes and introduction of the Tree Planting Strategy.

Option 3

To request changes to the Tree Management Policy and Tree Planting Strategy, prior to further consideration by Cabinet.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

The Tree Management Policy has been updated to incorporate legislative changes and includes a new section on climate change. Agreeing the recommendations set out in paragraph 1.2 of this report will support the delivery of the Our North Tyneside Council Plan 2021-25 carbon net zero 2030 ambition and the additional benefits that protecting existing trees and increasing tree planting, woodland and canopy cover can bring.

1.8 Appendices:

- 'Appendix 1: Tree Management Policy 2021
- 'Appendix 2: Tree Planting Strategy 2021-2024
- 'Appendix 3: Tree Management Plan 2021-2024

1.9 Contact officers:

Samantha Dand, Senior Manager, Local Environmental Services, tel. (0191) 643 7294
Paul Nelson, Environmental Sustainability and Street Lighting Manager, tel. (0191) 643 6467
Cathy Davison, Principal Accountant, Investment (Capital) and Revenue Strategic Finance, tel. (0191) 643 5727
Jackie Hunter, Biodiversity Officer, tel. (0191) 643 7279

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [Our North Tyneside Plan 2021-25](#)
- (2) [Environment Act \(2021\)](#)
- (3) [Town and Country Planning Act 1990\(as amended\)](#)
- (4) [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#)
- (5) [England Trees Action Plan 2021 to 2024](#)
- (6) [NPPF \(2021\)](#)
- (7) [Planning Practice Guidance \(as amended\)](#)
- (8) [North Tyneside Council Local Plan \(2017\)](#)
- (9) [North Tyneside and Newcastle Biodiversity Action Plan](#)
- (10) [North Tyneside Council Climate Emergency Action Plan](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The financing of specific tree planting projects will be considered as part of the development of each project business case. Any investment required in addition to existing budgets will be reported to Cabinet/Council.

2.2 Legal

Tree owners have a duty of care to visitors, residents and passers-by. The Authority in addition has a statutory duty of care under the Health and Safety at Work etc. Act 1974 and the Occupiers Liability Acts 1954 and 1984 to ensure so far as is reasonably practicable its trees

are safe and not a danger to the public. In addition to ensuring that its trees are safe, the Authority has a number of other statutory responsibilities.

Under the Town and Country Planning Act 1990 the Authority, as the Local Planning Authority has a duty to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.

Under Part VIII of the Town and Country Planning Act 1990 the Authority also has the power to make Tree Preservation Orders to protect landowners from cutting down, uprooting, topping, lopping, or causing wilful damage or destruction of a tree protected by such an order. Breach of such an order can amount to a criminal offence.

Under the Highways Act 1980 the Authority can require a landowner to make a tree safe if the tree is causing a danger to the highway. If the tree is not made safe, the Authority can undertake the work and charge the landowner for that work.

The Tree Management Policy is produced by the Authority to provide a guide to the public/landowners as to how the Authority discharges its various responsibilities given to it in relation to the management of trees.

The approval of the Tree Management Policy is an executive function.

2.3 Consultation/community engagement

On 18th May 2021, Ward Councillors were asked to identify any locations within their wards that they would like to be considered for potential tree planting, as part of the development of the new Tree Planting Strategy.

As part of the September Ward Member Briefings, Ward Councillors were again asked if they would like any locations to be considered as part of the Tree Planting Strategy.

On 7th September, the revised Tree Policy and proposed Tree Planting Strategy was presented to the Authority's Environment Sub-Committee for comment and consideration.

2.4 Human rights

Owners of land on which a tree is protected by a Tree Preservation Order are prohibited from taking specified steps to interfere with a protected tree on their land without the Authority's consent. This could be seen as an interference with their qualified right to the peaceful enjoyment of their land or possessions contrary to Article 1 of the First Protocol of the Human Rights Act 1998. However, if the legitimate aim of the Authority is to protect a tree this can be seen as a reasonable and proportionate interference with the landowner's property.

2.5 Equalities and diversity

Any new tree planting locations are assessed for suitability and a minimum of 1.2 metres is taken into consideration, to allow for wheelchair access.

2.6 Risk management

There are no risk management issues directly arising from this report.

2.7 Crime and disorder

If a Tree Preservation Order is made by the Authority to protect a tree and an individual ignores a protection order and damages a tree, they may be prosecuted by the Authority under the Town and Country Planning Act 1990 and on conviction ordered to pay a fine.

2.8 Environment and sustainability

Protecting existing trees and increasing tree planting, woodland and canopy cover will form a key part of the carbon net-zero 2030 plan that Cabinet will consider in 2022. Projects to plant trees in North Tyneside will have the carbon offsetting benefit calculated on a scheme-by-scheme basis.

PART 3 - SIGN OFF

- Chief Executive X
- Director(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X



North Tyneside Council

**TREE PLANTING
MANAGEMENT PLAN
2021/2024**

1.0 INTRODUCTION

The aim of new planting will be to maintain and increase tree cover across the Borough and to achieve a robust and diverse tree population, well suited to the planting location and able to meet the challenges of a changing climate, pests and disease, whilst maximising amenity, biodiversity and other tree related benefits.

It is important that the right tree is planted in the right place. A range of considerations such as ownership agreements, ground conditions, existing and current land use must be thoroughly assessed to ensure that the locations identified for this tree planting programme results in sustainable and healthy woodland areas. It is, however, likely that the majority of tree planting sites will be located on existing open space owned by the Council. This will directly relate to North Tyneside Council's Greenspace and Green Infrastructure Strategies, which aim to achieve a well-used, managed, connected and expanding network of green infrastructure within the Borough. It is not intended at this stage to liaise with private or other public sector landowners, as it is expected that the North East Community Forest will develop partnership working on a more detailed level.

Any new tree planting will give careful consideration to the species, layout and spacing of trees to ensure they have sufficient room to grow and develop, to minimise the requirements of future maintenance.

All new tree planting will utilise high quality, disease free planting stock from reputable suppliers grown to British Standard 3936 (1992) Nursery Stock.

The current most relevant standards must be followed in the implementation of all works

BS 3998: 2010: Tree work – Recommendations.

BS 5837: 2012: Trees in relation to design, demolition and construction - Recommendations.

BS 8545: 2014: Trees: from nursery to independence in the landscape: Recommendations.

BS 4428:1989: Code of practice for general landscape operations (excluding hard surfaces).

BS 3882: Specification for topsoil and requirements for use.

It is expected that because many of the sites are small scale, the planting of trees can be delivered by North Tyneside Council (NTC). All trees will be planted on NTC land and greater interconnection between various NTC service areas. However, it is hoped that NTC will look to develop greater opportunities with volunteer and community groups to undertake planting as part of wider environmental improvement projects.

2.0 BIOSECURITY

- All trees unless specified for specific places (memorial or specimen for example) shall be native species and ordered from reputable nurseries where origin can be checked.
- Orders should be placed by July or August for supply in late autumn/winter. All trees are to be inspected as soon as they arrive. Any trees that are not to specification or unfit for planting e.g. have broken leading shoots or side branches, damaged bark or dried-out and damaged roots are to be returned to the nursery.

3.0 ENSURING SUCCESSFUL ESTABLISHMENT – TIMING

- Planting trees will usually be undertaken during winter months (mid November to mid- March) while it is dormant and allows the tree to establish in its new environment. Planting outside of this time can increase the stress on a tree when it is in leaf and the tree may struggle to become successfully established.
- Planting the tree will include the purchasing of a tree stake to assist the stabilising of the tree and allows the roots to become established. Tree staking is to be removed after three growing seasons. Tree Guards made from non-plastic material, should reflect likely threats and an irrigation pipe assists in the watering of the root system of larger trees.
- Good aftercare for 2-3 years after planting is essential to ensure that the investment in trees is not wasted. This is particularly true for larger 'standard' trees.

4.0 TREE PIT PREPARATION IN SOFT LANDSCAPED AREAS

- The size of the pit depends upon the size of the tree that is being planted. The hole should be 3 to 4 times wider than the container or the root ball and have sloping sides. Carefully removing the tree from the container keeping the soil around the roots intact.
- Set the tree in the middle of the hole and avoid planting the tree too deep. If the root collar sits below the top of the hole, compact some soil under the tree so that the root flare at the base of the trunk is slightly above ground level. Using some of the soil, secure the tree in a straight position. Place the stake at an angle to the tree to avoid penetrating the root mass and knock in until it is firm, ensuring the top of the stake is adjacent to the tree. Tie the tree firmly to the stake using a tree tie. A buckle tie can be adjusted if required and has a spacer to avoid the stake chaffing the tree. Fill and firmly pack the hole with the original soil, making sure there aren't any air pockets. Keep backfilling until the soil is just below the root collar. Water in the tree and spread mulch 75 to 100mm deep in a 1000mm diameter area around the base of the tree but not touching the trunk. Remove any tags and labels from the tree as these will affect the tree as it grows. Prune any dead or broken branches.

5.0 TREE PIT PREPARATION IN HARD LANDSCAPED AREAS

- Street trees live a tough life and they need to be able to cope with drought, compacted soils, road salt and traffic pollution. The choice of street tree species therefore needs to be appropriate for them to thrive in their environment.
- In order to ensure successful tree establishment in urban areas, we will look to install, where practicable, tree pits with sufficient soil volumes to avoid untimely death or costly repairs. In many situations, an engineered solution will be considered to direct tree roots by incorporating structural soil cells or similar support modules (Green Blue urban for example) and considered early enough in any design or development project and incorporated during the engineering specification or groundwork stage.

- Any tree planting near utilities or within paved areas should have appropriate root management specified. Depending on what needs to be protected and where it is in relation to the tree, different root management solutions are to be considered by the Council's Tree Team or Landscape Architect. Tree pits will incorporate tree irrigation and drainage. It is essential to incorporate the means to efficiently irrigate a tree pit, especially in the critical first three years.
- Root Barriers: Avenue tree-planting or trees in urban spaces may cause problems to the foundations of nearby buildings due to root spread. It is therefore recommended that a root barrier be considered between trees and nearby buildings in those cases where the face of the building would lie within the root spread at the eventual maturity of the tree. Whether a root barrier is necessary in order to protect underground services will depend on the depth of the services as well as their proximity to the trees.

6.0 HIGHWAY ENGINEERING INFRASTRUCTURE PROJECTS

- Where financial resources permit and projects are of sufficient size that can incorporate a number of new trees, a fully integrated system should be considered, which combines root management, structural soil components, aeration, irrigation and appropriate above ground surface grille and vertical guard.
- The system can be adapted to suit differing locations and demonstrates a long-term approach to tree planning and management issues. This method provides the necessary soil volumes for successful tree establishment and addresses the issues of soil compaction, poor drainage and low nutrient levels that typically prevent sustainable root growth. Systems can be designed to provide load bearing pavement support (so reduced footpath maintenance costs) that provide optimum soil conditions for root growth without damage to underground utilities. A system such as this should be considered as part of the overall design. This will help makes our urban spaces more resilient, pleasant and healthy places to live, work and play as well as helping provide an interconnected network of multifunctional green spaces which provides multiple benefits and can accommodate sustainable development.



7.0 PLANTING WHIPS AND TRANSPLANTS

- Whips and transplants in soft ground may need some preparation. If the soil is compacted, then ideally the area should be subsoiled to loosen the soil and break up the compaction or plough pan. If subsoiling is not practical, a solution can be to plant in large planting pits where material has been introduced to improve drainage and add nutrients.
- Notch planting is the usual way to plant small trees and is generally suitable for mass planting of bare-rooted transplants and whips under 90 cm high. It should not be used in wet soil, for large or expensive trees or where failures must be minimised. Other methods are turf planting and mound and ridge planting.

8.0 PROTECTING TREES FROM DAMAGE

- Trees, especially when young, are extremely vulnerable to damage from animals and people. It is usually more cost effective to protect groups rather than individual trees. The usual choices are fencing, guards (for larger trees) or shelters. Tree shelters (wire mesh) are the most common tree protection for plantings of less than a hectare (2.5 acres). For larger areas, perimeter fencing is usually cheaper, but it will not always deter rabbits or squirrels. Growth with shelters can be up to five times the normal rate in the first two years.

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North Tyneside Council

TREE PLANTING STRATEGY 2021/2024



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1.0 INTRODUCTION

In July 2019, North Tyneside Council declared a climate emergency, reflecting its commitment to tackling climate change and preserving the natural environment in North Tyneside. The Authority is taking steps to become carbon neutral by 2030.

The Council has worked with a range of stakeholders to develop a Climate Emergency Action Plan that includes a number of ways to achieve the established targets. The Action Plan recognises that trees have an important part to play in meeting the agreed targets through the removal of carbon emissions from the atmosphere.

2.0 NATIONAL POLICY CONTEXT

The Government has committed to increasing tree planting in the UK. In 2020, the Government set a target of planting 30,000 hectares of trees per year, across the UK, by 2025. This ambition is similarly reflected in the Government's 25 Year Environment Plan, which includes a target to plant 180,000 hectares by the end of 2042.

In May 2021, the Government also produced the 'England Trees Action Plan 2021 to 2024' which sets out policy priorities to deliver an ambitious tree planting programme across England. The action plan focuses on '*expanding, protecting and improving our woodlands*'. The updated National Planning Policy Framework (NPPF) July 2021, (in response to this), also sought to further emphasise the Government commitment to increase tree planting with the national guidance for planning recommending that all new streets should be tree-lined.

Also, in January 2020, the UK's Committee on Climate Change released a report on land use which asserted that Britain must double its tree planting efforts in order to contribute towards a carbon neutral UK by 2050. A recommendation, from the Committee on Climate Change, specified that the area of woodland cover in the UK increase from the current 13% to at least 17% by 2050. This is based upon annual tree planting levels reaching at least 30,000 hectares from 2024, possibly up to 50,000 hectares, with one-fifth of agricultural land turned to tree planting and growing plants for fuel. These targets surpass the Government's current aspirations. Although this target has not been formally adopted by Government, it shows the rapidly developing thinking that is happening at a national level which is turning increasing focus to the role of trees in tackling climate change.

3.0 LOCAL POLICY CONTEXT

The North Tyneside Local Plan (2017) contains a policy to protect and manage existing woodland and trees and to promote and encourage new woodland, tree, and hedgerow planting schemes. This links to other policies to protect and enhance wildlife corridors, maximise opportunities for biodiversity, and to achieve the objectives set out within the Council's Biodiversity Action Plan (BAP), which includes objectives for woodland creation.

The Council's Greenspace Strategy and Green Infrastructure Strategy, also support these objectives as they aim to achieve a well-used, managed, connected and expanding network of green infrastructure within the Borough.

The Council's Tree Management Policy commits the Council to maximising tree planting and requires that when a tree is removed, it will be replaced with a minimum of two trees at the same location or at a suitable alternative location. This policy has guaranteed a steady surplus of tree planting by the Council across North Tyneside each year.

4.0 TREE PLANTING STRATEGY FOR NORTH TYNESIDE

This Tree Planting Strategy sets out how the Council will increase tree planting beyond its current commitments. The intention of the strategy is that additional tree planting will contribute towards reducing carbon emissions in accordance with the Council's commitments to tackling climate change. Secondary objectives include preserving and increasing the natural environment and biodiversity, as well as capitalising the health, social wellbeing, and aesthetical benefits of tree planting. There is also recognition of the increasingly important role tree planting can play in mitigating the effects of flooding and pollution.

A 4 year plan has been developed which sets out the Council's ambition for the planting of new trees and the principles to be considered when making decisions about tree planting. The main focus of this strategy will be on the planting of new trees and woodlands, within a wider context of improving the high quality management and maintenance of new and existing trees and woodland.

Sourcing the right trees, and the right mix of trees is important to ensure they can withstand the extreme weather associated with our changing climate, as well as pests and disease, which can result in significant tree loss. Proficient tree planting also reduces the need for maintenance, thus reducing future costs to the Authority. The right mix of trees is also important for maximising the biodiversity of a location. Careful consideration must always be given to

suitable planting locations, in order to give trees and woodland the best chance of survival. There will be different factors and considerations for each location based on local circumstances and conditions.

Any ownership agreements as well as existing and current land use will be thoroughly assessed to ensure that the locations identified for tree planting results in sustainable woodland. It is likely that the majority of tree planting sites will be located on existing open space owned by the Council.

The Tree Planting Strategy will relate to the Council's Greenspace and Green Infrastructure Strategies, which sets out the Council's approach to the management and maintenance of all open space and green infrastructure assets.

All new tree planting will utilise high quality, disease free planting stock from reputable suppliers grown to British Standard 3936 (1992). Specification for Trees and Shrubs (sections 1-5). Planting will be undertaken following the principles set out in the British Standard 8545 (2014) Trees: From Nursery to Independence in the Landscape – Recommendations.

Types of areas identified for suitable tree planting include:

- Urban settings including residential areas
- School grounds maintained by the Council
- Community sites including parks and cemeteries
- Highways and other transport corridors

In order to maximise the benefits of tree planting, the Council will:

- Avoid tree planting in sensitive areas, such as locations that already have a high biodiversity or carbon sequestration value, in order to protect ecologically rich landscapes
- Ensure that a diverse range of trees are planted to avoid mono-cultures, an area with a single type or species of tree, which are less resilient and offer less biodiversity benefit
- Ensure that tree species that are planted are appropriate to the particular conditions of a location
- Seek opportunities to prioritise better connectivity of woodland, through woodland expansion and the creation of new hedgerows and copses, in order to create wildlife corridors and reverse impacts of habitat fragmentation
- Ensure tree planting does not affect the integrity of buildings, road, and pavement surfaces

5.0 OVERVIEW OF TREE AND WOODLAND BENEFITS

- **Economic** - People prefer to live, work, and visit areas with an abundance of nature. This can, in turn, lead to economic benefits with increased visitor spending, increased spending, and employment opportunities. People and companies are attracted to well-designed, well-managed public places which can increase levels of investment in these areas and well-planned improvements to public green spaces in town centres can boost commercial trading. The presence of trees can reduce fuel costs for heating and cooling our homes, providing shade in the summer and protecting buildings from cooling winds in the winter.
- **Extreme Weather** - Trees also play an important role in adapting to the increasing extreme weather events caused by climate change. As well as sequestering carbon emissions to mitigate climate change, the planting of broadleaf trees located in urban areas can reduce the rate in which rainwater reaches ground level and soaking up excess ground water, reducing the impact of flooding. Tree canopies can provide natural cooling during periods of extreme heat as well as reducing soil erosion and excessive sediment entering watercourses, capture pollutants and thereby reduce the level of pollution entering groundwater.
- **Health** - The Covid-19 Pandemic has shown that trees and green spaces can improve our general health and wellbeing. They provide space for physical activity, which has a multitude of physiological and psychological benefits which could in turn result in a reduction in the cost of health care provision. Trees have been specifically linked to improvements in stress, anxiety and mental health issues. Street trees can have a beneficial impact on traffic, also working to buffer noise, dust and light pollution of busy roads.
- **Environmental** - Trees host complex microhabitats. They provide essential habitat to a wide range of species and can act as a major feature of 'green corridors', particularly in urban areas, providing essential links and transport routes for a range of wildlife. Trees provide feeding, nesting and roosting sites for many species. Trees, as part of a wider green infrastructure, can influence biodiversity by increasing habitat area, increasing populations of some protected species and increasing species movement. There are also the positive impacts that urban green infrastructure can have on air, soil and water quality which in turn, provide benefits for biodiversity. Trees can also provide increased environmental and aesthetic quality, the regeneration of previously developed land and improved quality of place.

- **Social** - Trees and woodlands are an important part of our society. Green spaces offer increased opportunity for positive social activity, improving community cohesion and engagement as well as developing local attachment and ownership. Tree planting opportunities provide opportunities for all. Trees also increase the aesthetic value of an area and provides a boost to civic pride for local residents.
- **Educational** - Tree planting can increase people's knowledge and understanding of trees, the natural environment and climate change. Not only do outdoor learning spaces help improve educational outcomes and attainment, but both children and adults can learn while making a real difference. It is important that both children and adults learn to appreciate and protect their natural environment.

6.0 COUNCIL OWNED TREES

The North Tyneside Tree Management Plan relates to trees owned or managed by the Council. It includes guidance on common enquiries about trees, tree management, tree pruning and removal, damage to trees, conservation and wildlife, education, community involvement and subsidence. There is also a suggested species list included.

The Tree Planting Strategy allows for opportunities within the design of Council schemes to increase tree planting. Highway renewal, new highway schemes, major development and redevelopment offer the best opportunity for new tree planting.

Locations for new street trees will be considered with great care and will concentrate predominantly on streets that have verges and new road schemes where tree planting can be planned at the outset.

7.0 ENSURING SUCCESSFUL ESTABLISHMENT

In line with best practice, the planting of trees will usually be undertaken during winter (mid November to mid March), whilst it is dormant, allowing the tree to establish in its new environment. Planting outside of this time can increase the stress on a tree when it is in leaf and the tree may struggle to become successfully established.

Street trees live a tough life and therefore need to be able to cope with drought, compacted soils, road salt and traffic pollution. Therefore the choice of street tree species needs to be appropriate to enable them to thrive in their environment.

In order to ensure successful tree establishment in urban areas we will look to install, where practicable, tree pits with sufficient soil volumes to avoid untimely death or costly repairs.

8.0 COMMUNITY ENGAGEMENT

The Council will engage with local residents, ward councillors and other stakeholders such as schools, businesses and community groups, in order to mitigate any risks at a location identified for tree planting. The Council will also support independent requests for tree planting by individuals or groups to ensure we meet the expectation of the local community. The Council will work with schools in North Tyneside to help support any of their own tree planting initiatives including providing practical assistance and materials.

9.0 FUNDING

There are significant funding opportunities available for tree planting due to the planned creation of a North East Community Forest. North Tyneside Council will work with five local authorities (Durham, Gateshead, Newcastle, South Tyneside, Sunderland) to increase tree planting with £480,000 available from the Nature for Climate Fund. The scheme intends to plant five million square metres of trees by 2025 and is an opportunity to significantly increase tree planting in North Tyneside and the North East.

Locally, the Council will also continue to explore funding opportunities to support tree planting across the borough, including Section 106 funding relating to planning gain, from within existing tree management budgets, and externally funded grants such as the 'Trees for Climate' bid.

APPENDIX (i)

4 YEAR PLAN FOR TREE PLANTING ACROSS NORTH TYNESIDE 2021

There are several key sites across North Tyneside that have been identified for new tree planting over the next 4 years. These sites are detailed in the table below.

Tree planting location	Reason	Location	2021/22 No. of trees	2022/23 No. of trees	2023/24 No. of trees	2024/25 No. of trees
URBAN SETTINGS INCLUDING RESIDENTIAL AREAS, HOUSING ESTATES, CAR PARKS, TOWN CENTRES, INDUSTRIAL ESTATES	Appropriate tree planting can enhance the local environment, bringing benefits in relation to air quality, biodiversity, climate change adaptation (shading, cooling, flood mitigation), mental health and wellbeing and sense of place. The Council's Tree Planting Management plan includes information on choosing the right tree for the site	Coast Road/Beach Road	50			
		Earsdon Road	20			
		Rake Lane/New York Road verges	20			
		Ridley Avenue up to Silverdale School	50			
		Billy Mill/Lynn Road/Netherton Avenue	25			
		Westminster Avenue	25			
		West Bailey/Northgate	10			
		B1321 Wideopen	30			
		Park Drive/Elsdon Drive	20			
	Council's Tree Planting Management plan	Boroughwide		250	250	250
PUBLIC SPACES & WILDLIFE SITES	The Council's Tree Planting Management plan includes	Holy Cross Cemetery	25			
		Dudley Cemetery			300	

INCLUDING CEMETERIES, SCHOOLS, AND WAGONWAYS	information on choosing the right tree for the site	Benton Cemetery		5		10
		Wagonways	100	100	100	100
	Request from school	Forest Hall Primary School		150		
PARKS	Refer to 'Tree Planting' document for Parks 2021/2026 (Pixie)	Rising Sun Country Park	5			
		Northumberland Park	80			
		Wallsend Parks	15			
		Marden Quarry	6			
		Whitley Park		5		
		Hilltop Park		5		
		Lockey Park	5			
		Benton Quarry Park	5			
		Killingworth Lake Park	130			
		Churchill Playing fields		140		
		Souter Park North	4			
		Souter Park South	2			
		Springfield Park		5		
		Royal Quays Parks		5		
		Alexander Scott Park		5		
Tynemouth Park	7					
		North Shields Masterplan		25		25

REGENERATION PROJECTS		Wallsend Town Centre		25		25
			634	720	650	410

Note - specific sites for tree planting are subject to appropriate surveys and consultations to ensure they are suitable for planting and these will be reviewed on an annual basis. In addition, tree numbers for each site are approximate and will be subject to funding and the appropriate surveys and consultations. The tree numbers and locations are not fixed, they can decrease and increase depending on the implementation of the strategy. Similarly, the year in which a location is planted can be moved forward or back.

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North Tyneside Tree Management Policy



Published Date: January 2022



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1.0 INTRODUCTION

This policy is a management plan for North Tyneside Council's trees of which there are circa 141,000 across the borough located in streets, parks, open spaces, housing estates, school grounds and cemeteries.

North Tyneside Council recognises the importance of trees in making the borough a great place to live, work and visit. The benefits will be enjoyed not only by today's residents, but future generations.

Trees make a valuable contribution to both wildlife conservation and the protection and development of a variety of habitats.

Trees absorb carbon dioxide, filter pollution and release oxygen into the air.

They contribute to the visual landscape by softening the shape of the built environment and can positively affect property values. Research shows houses with trees are more likely to sell.

Trees contribute to people's quality of life and sense of well-being and can reduce stress. People are increasingly aware of the benefits of trees and are placing a higher value on their role in the environment.

2.0 OUR TREE MANAGEMENT OBJECTIVES

- To protect and maintain our existing tree stock in a good and safe condition
- To annually increase the North Tyneside tree stock
- To maximise opportunities for new tree planting schemes where practically possible
- Ensure compliance with legislation British Standards 3998 (British Standard for Tree Work) and best practice when carrying out works on trees
- To engage the community in the planting, management and maintenance of our trees.



3.0 LEGISLATION

Local authorities must adhere to a considerable amount of legislation in relation to tree management. This includes the following:

- Town and Country Planning Act (1990), Town and Country Planning (Tree Preservation)(England) Regulations 2012, North Tyneside Council, as the local planning authority, is able to create Tree Preservation Orders (TPO's), in respect of trees or woodland, considered to have a significant impact on the amenity of a local area
- In addition to those trees protected by Tree Preservation Order, the act also make special provision for trees in conservation areas
- The Forestry Act (1967) requires certain permissions and licenses to be granted where felling of trees is proposed
- The Wildlife and Countryside Act (1981), as amended and the Countryside & Rights of Way (CROW) Act 2000, (it is illegal to intentionally or recklessly damage or destroy the nest of a wild bird, while its nest is in use or being built).
- Bats are a European Protected Species and are protected by the Conservation of Habitats and Species Regulations (2017) (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, places a duty on public authorities in England to conserve biodiversity (Biodiversity Duty).This requires that every public body must, in exercising its functions, have regard to conserving biodiversity.
- The Hedgerow Regulations (1997) introduced powers allowing important native hedgerows to be protected.
- Anti-Social Behaviour Act 2003: Part 8 High Hedges. This legislation gives people whose gardens are overshadowed the opportunity to resolve the problem.
- The Environment Act (2021)



OUR POLICIES

4.1 Maintenance

The council's Arboricultural Officer is responsible for leading the two dedicated tree maintenance teams and ensures all maintenance of North Tyneside's tree stock is in accordance with legislative requirements and "British Standards for Tree Work" – BS 3998.

When undertaking highway works near to trees, we will adhere to the guidelines as set out in the Department for the Transport's 'Roots and Routes: Guidelines on Highways Works and Trees'.

4.2 Tree Pruning

Pruning of trees will be carried out when considered essential, as cutting can weaken the tree and allow decay organisms to enter exposed and vulnerable tissue. Examples of where pruning to council owned trees will be carried out are:

- Where branches or twigs cause obstruction to a public highway and public right-of-way or footpath
- Where unapproved rope swings are installed, the swing will be removed for reasons of safety, and pruning works may be carried out to prevent reinstallation of the swing
- If the Arboricultural Officer considers a tree to present a threat to the public or property
- Where trees are causing legally actionable nuisance to an adjoining property e.g. Trees that are physically in contact with buildings or roofs
- Where roots are causing disruption to pavements and kerbs. In such cases this would be referred to the council's Highway Department for advice
- Parts of trees preventing repairs or maintenance of property
- Trees obstructing signage or obscuring essential sightlines on the highway
- Trees interfering with street lighting
- Where the loss of light is having a significant impact upon a resident, for example if they are house bound.



The following reasons will not constitute grounds for pruning healthy trees:

- Interference with satellite dish TV reception
- To enable installation or maintenance of solar panels.
- The tree is perceived to be too large
- The obstruction of non-strategic views. (Strategic views are identified in site specific management plans)
- Issues caused by insects or birds
- Problems associated with fruit/pollen/leaf fall.

For every referred tree, an assessment will be carried out by the Arboricultural Officer to determine whether any remedial works are required.

4.3 Tree Removal

Tree removal will only be considered when a tree is:

- Dead, dying or diseased (account of the individual species will be taken into consideration e.g. Oak, which has significant amounts of natural deadwood)
- The Arboricultural Officer considers the tree to be a danger to public safety
- A major contributor to serious structural damage to main buildings or infrastructure
- In an area designated for development or redevelopment.

Healthy trees will not be removed for the following reasons:

- Interference with satellite dish TV reception
- To enable installation or maintenance of solar panels
- The tree is perceived to be too large
- To allow the installation of a vehicle access crossing
- The obstruction of non-strategic views. (Strategic views are identified in site specific management plans)
- Issues caused by insects or birds
- Problems associated with fruit/pollen/leaf fall
- A perceived risk that a tree will cause subsidence in the future



- Causing disruption to pavements and kerbs. Prior to any other action being taken each case will be assessed in consultation with the council's Highway Department.

4.4 Damage to council owned trees

It is an offence for anyone to cut down, uproot, top, lop or wilfully destroy a tree within council ownership.

We will seek compensation from any external organisation or person/s responsible for significant damage to, or removal of any council owned tree/s.

If a tree is protected either by a tree preservation order or is located within a conservation area, it is important to note consent must be obtained prior to any works taking place on the tree(s).

4.5 Tree Planting

We will take every opportunity to maximise tree planting across the borough. When a tree is removed, we will replace with a minimum of two trees at the same location or at a suitable alternative location. We will ensure that the species selected are appropriate to the location (refer to Appendix i).

We will work closely with our planning team and developers at an early stage, to ensure appropriate tree species and varieties are introduced in our new developments. (See Appendix i)

A 4 year Tree Planting Strategy has also been developed to maximise tree planting across the Borough.

4.6 Conservation and Wildlife

Tree management will be carried out in line with the relevant objectives contained within the joint Newcastle and North Tyneside Local Biodiversity Action Plan.

- The ecological value of tree planted areas will be increased by utilizing wherever possible, decaying wood sources such as standing timber



- Felled timber, brash piles and wood chippings will be left in situ wherever practicable
- When we remove wood chippings, they will be recycled for use on paths and shrub borders to reduce maintenance operations
- Other methods of attracting wildlife will be encouraged such as installation of bat and bird boxes.
- Works will be undertaken in accordance with relevant wildlife legislation

4.7 Climate Change

In July 2019, North Tyneside Council declared a climate emergency, reflecting its commitment to tackling climate change and preserving the natural environment in North Tyneside. At the time the Council set a target to be carbon neutral by 2050.

In September 2021, Council agreed the Our North Tyneside Council Plan 2021-25 which contains the following policy ambition;

“We will publish an action plan of the steps we will take and the national investment we will seek to make North Tyneside carbon net-zero by 2030.”

The Council has worked with a range of stakeholders to develop a Climate Emergency Action Plan. The plan is being updated to reflect the new 2030 target, however it will retain actions in planting trees and creating new woodland and canopy cover in recognition of the important role of carbon offsetting in achieving carbon net-zero.

4.8 Community Involvement

We will engage and work with residents, volunteers, ‘friends of groups’ and partners to enhance tree management across the borough.

Where possible, we will work with the community to address issues relating to historic plantings. Community led long term management plans will be developed to assist with this process.



4.9 Education

Where appropriate, trees will be utilised to provide learning material for the understanding of related subjects such as living processes and the carbon cycle.

We will provide assistance and a tree condition survey to schools serviced by the council's arboricultural team to improve tree habitat and education provision within school grounds on request.

4.10 Tree Protection

As a general rule, Tree Preservation Orders are not placed on council owned trees unless a conflict occurs between council development policies and the council's tree management practices.

All arboricultural work carried out by the council will follow current best practice and comply with current legislation.

Where a tree or group of trees make significant visual impact on their local surroundings, the council can declare a Tree Preservation Order. This is not only intended to prevent their unauthorized removal, but also to allow control of their maintenance and replacement.

4.11 Subsidence

It is recognised that damage may result from the presence of trees, and that remedial tree management does not always prevent subsidence and removal may be necessary in some cases.

Removal will be programmed where the tree is shown to be a major contributor to soil shrinkage coupled with serious structural damage to buildings and where pruning alone would not provide a solution. Damage to walls and paved areas is usually considered to be minor and would not normally warrant removal of a tree.

Structural problems must always be carefully investigated. Property owners are required to provide documented proof to the council's Claims and Insurance Team where they believe that a



specific tree is causing damage to their property. The council does not accept presumption of damage or unsubstantiated claims as being a case for removal of trees.

4.12 Issues relating to drains

Root ingress from street trees into private gardens cannot be prevented; and we will not remove tree roots where this occurs.

We cannot accept responsibility for tree roots that have gained access to drains or services which are deemed to be in a poor condition.

5.0 TREE SAFETY

- We will comply with tree maintenance British Standards 3998 when carrying out tree works.
- Tree surveys will be undertaken across the borough.



Enquiries and further information

- For tree enquiries contact Envirolink on Tel: 0191 2000 103.
Envirolink@northtyneside.gov.uk
- For highways related enquiries contact the Highways Department:
highways@northtyneside.gov.uk
- For insurance and claims enquiries contact the Claims and Insurance team on Tel: 0191 643 5870/ 5866
- If you are unhappy with the response you have received then you can report your complaint to the Customer Liaison Service for investigation, through the council's corporate complaints procedure. Details are included on North Tyneside Council's website
www.northtyneside.gov.uk

Customer & Member Liaison Office
Law and Governance
North Tyneside Council
The Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

Tel: (0191) 643 2280
customerliaisonoffice@northtyneside.gov.uk



APPENDIX 1

THE MANAGEMENT OF SPECIES SELECTION AND PLANTING IS AS FOLLOWS:-

- The selection of native species where appropriate.
- Consideration of the eventual mature size and suitability for setting.
- Water demand relating to soil type and construction types of surrounding structures.
- The visual appearance.
- Wildlife diversity.
- To increase the number of trees planted.
- Ensure that trees are only planted in locations that do not conflict with other nature conservation interests e.g. on species-rich grasslands.

This species list is not exhaustive but provides a guide to the trees we will consider planting and the locations we will plant them.

KEY to Appendix

W = Woodland, V = Verges, S = Street, P = Parks, H = Hedges

Photographs kindly provided by Barcham Trees.

Maple (*Acer campestre*)



- *Acer campestre* is a useful native small to medium sized tree.
- It has gnarly bark which develops as it matures and in the autumn, the leaves turn yellow, orange and golden brown.
- It is tolerant of most soil types, although it does do best in rich, well drained soils. It will tolerate drought, air pollution and soil compaction.
- The Field Maple, *Acer campestre*, is widely used as a specimen tree and a hedgerow plant. It will tolerate regular pruning during the winter period to keep it in shape. It has good ecological qualities making it useful to wildlife.



WVSPH

- 12 -



Japanese Maple (*Acer palmatum*)



Round



Small (6-10m)

VP

- The Japanese maple was introduced into Britain in the 1820s. This magnificent tree can outstrip size expectation if left alone in an area large enough to accommodate
- A delightful small tree, for a shady position. It has rounded habits and its deeply lobed leaves turn shades of yellow, red and orange in the autumn. They do best in rich, moist, but free draining loamy soils.

Norway Maple (*Acer platanoides*)



Oval



Large (18m+)

WVSP

- An imposing and fast-growing tree of great size and the parent of many cultivars.
- Distinctive yellow flowers appear in spring ahead of the leaves which turn yellow and sometimes red in autumn. A native tree of Norway and Europe, but not in Britain.
- It does well on most soil types, tolerate air pollution and resists drought
- Many of its varieties are suitable for urban and street planting. It is widely used in parks and streets.

Sycamore (*Acer pseudoplatanus*)



- Native to central and southern Europe, the Sycamore has long been naturalised in Britain. It is a very large tree, and very fast-growing for the first 20 years. It is also one of the very toughest. Many of its cultivars are smaller but equally as durable.
- It tolerates pollution and thrives in most soils, and is particularly useful for coastal sites where it can make an effective defence against strong winds and salt laden air predating historical measures.





WVSP

Italian Alder (*Alnus cordata*)



- Originating in southern Italy and introduced in 1820, this fast-growing, medium tree has a conical habit. Its shiny, green, pear-like leaves last well into winter, particularly under street lighting. It produces notably larger fruits than other alders. Good for coastal plantings.
- It thrives on all grounds including dry, high pH soils but is most at home nearest water. Being highly tolerant of urban pollution it is a particularly adaptable urban tree but must be given enough room or it can outstay its welcome. The bark is a glistening brown when young but matures to be rougher, it can cause the lifting of hard areas over time.



VSP

Common Alder (*Alnus glutinosa*)



- This medium-size native tree has a conical growth habit and produces yellow catkins in March. Its natural habitat is boggy land and river banks. However it is also very good for urban plantings as it thrives in all soils and tolerates air pollution.
- Being a native tree, it is a wonderful host to a wide range of wildlife. It is a very useful variety to plant where the ground is liable to flood and survives many weeks with its roots underwater. *Alnus glutinosa* remains a vital inclusion to any native planting mix.



WVSP



Grey Alder (*Alnus incana*)



- A really hardy and tough medium tree, capable of coping with cold, wet soils and exposed situations. Grey Alder is a fast grower, well suited to industrial areas and street plantings. Its pointed leaves readily distinguish it from *Alnus glutinosa*.
- Introduced from Europe in the 1780s it does best on calcareous soils and tolerates air pollution. In the recent past the North American tree bearing the same generic name has been changed to *Alnus Rugosa* to avoid confusion amongst well travelled tree enthusiasts. Profuse pink/yellow catkins are produced just prior to spring.



Broadly
Conical



Medium
(10-18m)

WVSP

Serviceberry (*Amelanchier Ballerina*)



- This small tree, with its finely toothed leaves, was selected by the Experimental Station at Boskoop in the Netherlands in the 1970s and named in 1980. It forms a broader crown than Robin Hill and is less tall making it a better choice for verges and gardens than for streets.
- It has abundant white flowers in spring and excellent red autumn colour. It does best in moist, well drained, lime free soils and is remarkably resistant to fire blight.
- Used extensively in parks and areas where a low crown is acceptable such as grass verges.



Round



Small (6-10m)

VP



Silver Birch (*Betula pendula*)



- Silver Birch is also known as the “Lady of the Woods” – so-called because of its slender and graceful appearance. It is a pioneer species and particularly admired in the UK. Even though it seemingly grows anywhere it is remarkably difficult to successfully transplant bare rooted.
- A medium tree with a conical, but semi-sweeping habit, the bark is white with horizontal lines and large, diamond-shaped cracks as the trees mature. Very good for parks and woodland, but not suitable for areas where soil becomes compacted. It grows well on most soils and it is grown as both a single stem tree and multi-stemmed tree.



Broadly Columnar



Large (18m+)

WVP

Common ash (*Fraxinus excelsior*)



- A very tough native tree. It is easily recognised when dormant as its buds are black. Late to leaf and early to fall, this is probably our toughest native tree.
- Variable in habit and often overlooked for avenue planting where uniformity is required. Ash is fast-growing and produces vast quantities of fertile seed.
- Best suited for parklands and highway verges. It thrives on moist soils, including calcareous, and will tolerate windswept, exposed sites, coastal locations and air pollution.



Irregular



Large (18m+)

WVSP

Common Beech (*Fagus sylvatica*)



- One of the most majestic of our native trees, the Common Beech can become very large with a slow branched habit.
- It has a wide variety of uses in woodland, parkland and in broad verge plantings and few trees can surpass its rich, copper autumn foliage. Beech thrives just about anywhere other than exposed and coastal locations. As it is shallow rooted, under planting is not recommended. It does well in most reasonably





WVPH

fertile, well drained soils, except heavy clay or light sand.

- Favours more temperate climates and is difficult to establish faced with extreme heat and drought. Avoid planting on paved or tarmac areas where reflected heat and light makes Beech suffer.

Bird Cherry (*Prunus padus*)



- The Bird Cherry, a native of Britain as well as the rest of Europe, it is a relatively late flowerer. It is a tough tree, withstanding the rigours of the urban environment but like other cherries does not thrive on waterlogged ground.
- The white flowers of the bird cherry produced in May in hanging racemes. The black fruits in late summer are edible but rather bitter. Luscious and large green leaves turn yellow to bronze in autumn. This is around a tree of medium height, and is good in parks, gardens and woodlands



WVSP

Broad-Leaved Lime (*Tilia platyphyllos*)



- The Broad-Leaved Lime is a native of Britain. Flowers in June/July and is very tolerant of pruning. It is a compact and stocky tree, the luscious foliage always gives it a healthy demeanour.
- The colonial selection 'Delft' is a European clone the forms are more pyramidal crown at maturity and could be used where uniformity is required.



WVSP



Common Lime (*Tilia x europaea*)



- Once the most frequently planted Lime, this is a very long-lived tree and commonly planted in central Europe as an urban tree. It is a hybrid between *Tilia Cordata* and *Tilia Platyphyllos* has been known to reach over 50 m tall.
- A large and impressive, broadly oval-shaped tree which is widely used for avenue plantings. It is recognisable by its dense suckering, which forms burrs on the trunk. Its large lush leaves can attract aphids which can result in honey dew and associated sooty mould problems



Broadly Round



Large (18m+)

WVSP

Dawn Redwood (*Metasequoia glyptostroboides*)



- This Redwood is of great botanical interest. It was discovered in China in the 1940s, before which the genus consisted only of fossilised forms. A deciduous conifer, it has rapidly established itself as a huge urban and rural favourite. Often confused with *Taxodium*, it is quite different if they are seen together at close quarters.
- Very large and statuesque pyramidal, it makes a grand park or specimen tree, but is also good for streets and avenues with a clear stem.



Broadly Conical



Large (18m+)

VSP



Common Oak, English Oak (*Quercus robur*)



- Perhaps the most majestic of our native trees, the English or Common Oak was once the predominant species in English lowland forests, and has become virtually a national emblem. Very long-lived, its hard timber has been used to produce the finest furniture, from ships through to coffins.
- A large, imposing, broadly oval tree, heavy limbed and long-lived. Its deeply grained bark gives year-round appeal, and its expansive root system does best on deep, heavy soils.



Broadly Round



Large (18m+)

WVP

Common Hawthorn (*Crataegus monogyna*)



- Also known as Quickthorn or May, this small native hawthorn has many ancient associations and is most seen as hedgerow plants along the span of the UK. It is without doubt one of our prettiest native trees.
- The small white, fragrant flowers which appear in May and June are followed by small red fruits in abundance during autumn, providing much-needed food for wild birds. A good choice for urban and coastal planting it is also tolerant of air pollution. It does well in most soils, including very dry and wet soils.



Broadly Round



Small (6-10m)

WVHSP

Common Hazel, Cobnut, Filbert (*Corylus avellana*)



- *Corylus avellana*, also known as Common Hazel, is native to the UK and has long been cultivated for not only its Hazelnut production but also grown and regularly coppiced to produce poles for naturalised fencing for wattle and daub building.
- The Common Hazel has bright green, fairly rounded foliage which appears in spring after the striking display of long yellow catkins or “lamb's tails” in January/February time. The hazelnuts are produced in abundance throughout the summer, finally ready for harvesting in the autumn.



Broadly Vase shaped



Very Small (up to 6m)

WVHP

- 19 -



Common Holly, European Holly, English Holly (*Ilex aquifolium*)



- The English Holly is a classic evergreen tree, producing leaves which are thick and waxy and have lobed, spiked margins. The small flowers are white and borne in late spring, at which point they are pollinated by bees. The bright red berries then follow on from this, developing throughout the summer time to mature in October and November, *Ilex aquifolium* is native to Britain; it is a small tree at maturity which forms an attractive, pyramidal shape. Like many evergreens the European Holly prefers well drained soils and will not thrive in soils which have a propensity for water holding.



WVHP

Hornbeam (*Carpinus betulus*)



- The timber of the Hornbeam has traditionally been used to produce mallets, skittles and even the moving parts of pianos his wonderful native tree is closely related to the hop Hornbeam, *Ostrya carpinifolia*.
- Wonderful in a parkland setting, growing in groups and ideal for pleaching, the Hornbeam is a large tree with a characteristically fluted trunk and ovate, ribbed and serrated leaves which turn a lovely clear yellow in autumn. This British native produces hard, finely grained timber with many uses. It grows well on most soils, including clay and chalk. Most useful tree for poor planting conditions.



WVSHP



London Plane (*Platanus x Hispanica*)



VSP

- First recorded in the early 1660s, the London Plane was extensively planted as a street tree in the capital due to its tolerance of air pollution and of pruning. It is believed that it was significantly responsible for the clearing up of the smog laden air resulting from the industrial revolution.
- Large, fast-growing tree with a broadly oval crown. One of its main features is the trunk, which flakes to reveal a patchwork of green, white and cream. The leaves are large, deeply lobed and palmate. The rounded fruit clusters, produced in strings, resemble little baubles, which hang from the branches for much of the year. Still a good choice for urban plantings, it is also great for parkland.

Mountain Ash, Rowan (*Sorbus Aucuparia*)



WVSP

- *Sorbus aucuparia*, known as Mountain Ash, is one of our prettiest native trees and the parent of numerous clonal sections.
- White flower in the spring produces orange/red berries by September which birds feast on ahead of winter. The finely toothed green foliage can turn yellow through to orange in the autumn before leaf fall. *Sorbus aucuparia* thrives on most free draining soils but is not a lover of hard areas where reflected heat and light can create too hot an environment for it to thrive.
- Often grown as a multi stem tree, this round headed tree is a great all-rounder.



Purple Leaved Plum, Cherry Plum (*Prunus cerasifera Nigra*)



Round



Small (6-10m)

VSPH

- Introduced in the early nineteen hundreds this form of the Cherry Plum (or Myrabolan) provides only a few red fruits. A popular tree, often planted on city streets or verges, it is easy to maintain in a garden as it reacts well to very severe pruning.
- Small tree with a rounded form, it is most notable for its purple flowers and stems. Early pink spring flowers fade to white before the leaves take full effect. This is a robust performer, thriving on most free draining soils.

Scarlet Willow (*Salix alba Chermesina*)



Broadly Conical



Medium (10-18m)

P

- This clone is also known by the cultivar name of Britzensis. Has been known to extend over 3 metres of growth in a single growing season from a coppice.
- A medium to large tree with a rather pyramidal crown, its young branches are brilliant orange red in winter, especially if severely pruned every other year to produce a multi-stemmed tree. It makes a very good park tree and thrives on most soils including those prone to flooding.



Swedish Whitebeam (*Sorbus Intermedia Brouwers*)



Broadly Oval



Medium (10-18m)

WVPS

- This Swedish Whitebeam has a more pyramidal crown than the species and is more commonly grown by nurseries as the catchall for *Sorbus intermedia*. Clonal variations can be very similar to their parents but crucially offer a far greater degree of uniformity.
- A medium-sized tree with a conical crown, single, dark green leaves have silver grey and decidues. White flowers may produce orange red fruits. It is wind resistant and tolerant of calcareous soils and air pollution, making this a really tough tree. It will thrive in even the harshest conditions including near the coast.

Whitebeam (*Sorbus aria Lutescens*)



Broadly Round



Small (6-10m)

WVPS

- *Sorbus aria Lutescens* is one of the best Whitebeam trees available.
- The whitebeam tree has foliage which emerges from purple shoots in the spring, soft and silvery-white. As the seasons progress the leaves harden to become a more distinct grey on the underside and green on the surface. The clusters of creamy white flowers appear in April and May, followed by bright orange-red fruit in the autumn time, when the leaves turn a golden brown before falling.
- At maturity this small tree retains a rounded and compact shape, requires little maintenance and will thrive on all soils, including chalky ones.



White Willow (*Salix alba*)



- *Salix alba*, known as White Willow, is a lovely native tree that thrives on wetland sites all over the UK.
- Fast growing, its silver green leaves that emerge in the spring turn to yellow as they are ready to fall in the autumn.
- Part of a willow's survival plan is to drop twigs and limbs as they mature as these can root where they land and so start again. With this in mind *Salix alba* isn't a great choice for a garden but can be routinely coppiced to keep juvenile on soils that are prone to flooding.
- If left to its own devices it can reach over 20 metres tall by pretty much the same width Great for riverbank and lakeside planting.



VP

Wild Cherry (*Prunus avium*)



- *Prunus avium*, known as Wild Cherry, is one of our prettiest native trees.
- Single white flowers are produced in the spring and its green leaves turn gold through to red in the autumn before leaf fall. All flowering cherries prefer free draining soils and this cherry is the parent of many cultivated varieties.
- Being native, it is a great tree to support our range of wildlife.



WVSP



English Yew, Common Yew, Yew (*Taxus baccata*)



- *Taxus baccata*, known as English Yew, is a versatile evergreen native tree that is often grown as a hedge.
- Incredibly long lived, it is often associated with churchyard planting and rejuvenates itself remarkably well if pruned hard in the early spring.
- It is worth noting that every part of Yew is poisonous, apart from the red flesh of the berry.
- Like most evergreens it is not tolerant of waterlogged soils and thrives best on free draining lighter land.
- Great for parks and gardens, frequently used for topiary or formal columns and cones.
- *Taxus baccata* can grow on either acidic or chalky soils so long as they are well drained.



WVPH



APPENDIX

NORTH TYNESIDE TREE PLANTING POLICY: GUIDING PRINCIPLES

Aims and objectives:

1	Plant trees for the future	<ul style="list-style-type: none"> • Develop opportunities to increase canopy cover across the Borough • Plant the right tree in the right place • Increase species diversity (pest and disease) • Identifying current tree stock population within the Borough • Look to plant 2 to 3no replacement trees for every one that is removed • Plan for the care, management and enhancement of the Borough Tree population • Species for planting will be carefully selected, planted in suitable planting pits, and appropriate to their location, giving particular consideration to the landscape character guidance and enhancement of biodiversity. • Plant more street trees along major transport routes 	<ul style="list-style-type: none"> • Tree planting programme • North Tyneside Tree Management Policy • NECF and I-Tree • Local Plan Policy • National Planning Policy Framework
2.	Protect irreplaceable trees, woodlands and hedgerows	<ul style="list-style-type: none"> • Monitor the Councils Tree Preservation Orders and continue to protect trees with additional Orders • Seek to identify, protect and retain veteran trees within the borough because of the cultural, historical and biodiversity value. 	<ul style="list-style-type: none"> • Tree Preservation Orders (Council website) • Record and monitor veteran trees on Council website



		<ul style="list-style-type: none"> • Manage replacement planting for TPO's 	<ul style="list-style-type: none"> • Annual review of replacement planting
3.	Managing existing tree stock	<ul style="list-style-type: none"> • Inspections • Managing Risk • Maintaining safety to public and highways • Seek appropriate grant funding 	<ul style="list-style-type: none"> • North Tyneside Tree Management Policy • NJUG • NECF
4.	Local Plan policy	<ul style="list-style-type: none"> • Plan greener local landscapes • Protect, maintain and enhance trees on development sites • Provide a monetary value on important trees if required to be removed as an exemption • Maximise the role of trees in flood prevention • Plant trees to support carbon reduction in the Borough 	<ul style="list-style-type: none"> • Local Plan Policy • NPPF • CAVAT • Climate Emergency Action Plan • NECF
5.	Community	<ul style="list-style-type: none"> • Improve awareness in schools • Involve communities in planting and managing trees • Improve management to promote access woods and trees • Support the creation of community woodland groups • Plant trees to improve health and wellbeing 	<ul style="list-style-type: none"> • Consultation and Engagement



6.	Biodiversity	<ul style="list-style-type: none"> • Plant trees to support wildlife • Plant trees to strengthen important habitats • Plant trees to create networks for wildlife • Plant trees to sustain precious and vulnerable woodland habitats 	<ul style="list-style-type: none"> • Newcastle and North Tyneside's BAP • Local Plan Policy • NECF
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North Tyneside Council Report to Cabinet Date: 24 January 2022

Title: Review of North Tyneside Council Lettings Policy

Portfolio(s): Housing	Cabinet Member(s): Councillor Steve Cox
Report from Service Area:	Environment, Housing and Leisure
Responsible Officer:	Phil Scott, Director of Environment, Housing and Leisure (Tel: (0191) 643 7295)
Wards affected:	All Wards

PART 1

1.1 Executive Summary:

Every local authority must have a housing allocation scheme, with a criteria in place for identifying the priority of customers. The North Tyneside Lettings Policy clearly sets this out, taking account of relevant legislation and best practice.

We review the Authority's Lettings Policy every two years, with the last review taking place in 2019. A fundamental review has been carried out to ensure the policy operates effectively and is in line with any legislative changes.

The outcome of the review is, the current Letting's Policy works well in ensuring those applicants with the greatest housing need are accommodated, and there are no material changes required.

This report is to formally acknowledge the undertaking of the two-year review and provides context to the review, including how the current policy operates in practice.

1.2 Recommendation(s):

It is recommended that Cabinet: Approve the reviewed policy.

1.3 Forward Plan:

Twenty-eight days notice of this report has been given and it first appeared on the Forward Plan that was published 26 November 2021.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in Our North Tyneside Plan 2021 – 2025, Building A Better North Tyneside:

A Thriving North Tyneside:

- We will regenerate the high streets of North Shields and Wallsend, and in addition to the master Plan for North Shields, we will bring forward Master Plans for Wallsend and Whitley Bay town centre areas. We will also bring investment and improvements to the North West area of the borough and ensure that regeneration delivers ambition, opportunity and benefit for all of our residents.

A Secure North Tyneside:

- We will provide 5000 affordable homes

A Caring North Tyneside

- People will be cared for, protected and supported if they become vulnerable, including if they become homeless

In addition to Our North Tyneside Plan 2021 - 2025, the Lettings Policy also relates to the current plans and strategies:

North Tyneside Housing Strategy 2016 - 2021

This Strategy has four strategic objectives, of which preventing homelessness sits within Priority 4: Better Homes, More Independence.

North Tyneside Homelessness Prevention Strategy 2019 – 2021 and Delivery Plan

The newly adopted strategy has four priorities, these have been shaped by recent legislative changes, homelessness review, engagement with service providers and service users.

North Tyneside Tenancy Strategy 2021 - 2025

The Strategy emphasises the need to make best use of the housing stock to meet local housing need, maintain and create successful, sustainable communities and prevent homelessness.

North Tyneside Joint Health and Wellbeing Strategy 2013 - 2023

This Strategy focuses on the health inequalities that exist within the Borough and sets out priorities to address this. The issues faced by many homeless and transient people cut across all five strategic priorities.

The Lettings Policy promotes sustainable communities and helps people access secure, suitable, and affordable homes within North Tyneside.

1.5 Information:

1.5.1 Background

It is considered best practice to undertake a review of the Policy every two years and the last review was completed in 2019. It is timely to consider the impact of the changes made to the Policy in 2019, to confirm that those changes have had the intended outcome.

Since the review of the Policy in 2019 there have been a number of legislative changes, which are linked to the Lettings Policy. Therefore, it was important to consider those legislative changes during the review, to ensure that the policy meets these requirements and that it is fit for purpose.

1.5.2 Review Process

The review of the Lettings Policy has taken account of the following legislation:

- Housing Act 1996
- The Localism Act 2011
- The Welfare Reform Act 2012
- Care Act 2014
- The Homeless Reduction Act 2017
- Allocation of Accommodation: Guidance for local housing authorities in England, June 2012
- Providing social housing for local people; Statutory Guidance for local authorities in England, December 2013
- Domestic Abuse Act 2021
- Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020
- Improving Access to Social Housing for Members of the Armed Forces 2020

The review has also considered:

- Any issues identified during the operation of the current Lettings Policy
- Ongoing feedback provided by Officers, Members, Customers and Stakeholders. It is to be noted that North Tyneside Lettings Policy has received positive recognition by other Local Authorities within the Tyne and Wear area.

Focus has also been given to the outcome of the previous review, carried out in 2019. This included changes to:

- Financial Resources
- Transfer (North Tyneside Council Tenants)
- Restrictions on Bidding
- Homeless Offers

1.5.3 New Legislation

Since the implementation of the Authority's Lettings Policy in 2019, key legislative changes have been enacted, namely: -

- Domestic Abuse Act 2021.
- EU Settlement Scheme covered by Right to Rent under Immigration Act 2016.
- The Armed Forces 2020.

Having carefully reviewed the Authority's 2019 Letting Policy against the requirements imposed on the Authority by the legislation set out above, it is clear that the Policy already meets those requirements, and that the Policy is fit for purpose in that regard.

1.5.4 Summary of Changes Introduced in the 2019 Lettings Policy Review

Below provides a summary of the changes introduced by the Authority's 2019 Lettings Policy. Significantly, the changes that were introduced then, have had the intended outcome and all of the changes implemented operate effectively.

- **Financial Resources**

Changes Made:

- Financial limit set for joining the register, where applicants have resources to meet their own housing need
- Exceptional circumstances apply, where appropriate

Rationale:

- Accommodation is in high demand

Outcome:

- Since the new policy was introduced in 2019, there have been 140 applicants who have been ineligible to join the register, due to financial resources.
- The limit on financial resources works as it intended to.

- **Transfers:**

Changes Made:

- North Tyneside tenants, with no housing need, are unable to join the housing register until they have lived in their home for one year or more

Rationale:

- Once an applicant has been rehoused by the Authority, it is deemed their housing need has been met
- Transfers have a financial impact on the Authority. In 2017/18 it cost an estimated £493,500 to move tenants with no housing need
- Transfer tenants with no housing need can apply for a mutual exchange

Outcome:

- In 2018/19, there were 298 transfer applicants rehoused
- In 2019/20, there were 292 transfer applicants rehoused
- The Policy changes that were introduced still allow for rehousing where there is a housing need. The changes have kept lettings to transfer applicant's static

- **Restrictions on Bidding**

Changes Made:

- If an applicant refuses 3 reasonable offers of accommodation, they are prevented from bidding for 6 months

Rationale:

- It is costly for the Authority to administer the process. In 2017/18, there was an average of 38 refusals per week
- Refusals on properties creates in letting properties to those most in need

Outcome:

- Since the changes were made in 2019, there have been 12 applications which have been restricted since the changes were made

- **Homelessness**

Changes Made:

- The process continues to allow homeless customers to join the housing register, where they would ordinarily be able to bid for homes
- Ineligible homeless applicants (who are owed a duty) continue to be rehoused via direct lets
- In response to the requirements of the Homeless Reduction Act, direct lets are also offered to eligible homeless applicants, where they are unable to secure accommodation before their homeless duty expires

Rationale:

- Direct lets prevent homeless applicants from bidding on high demand homes, where they would ordinarily be ineligible to join the scheme
- Direct lets enable the homeless duty to be discharged and where appropriate, move-on customers from temporary accommodation

Outcome:

- Since December 2019, there have been 106 homeless households accommodated via a direct let, enabling statutory duties to be met

1.5.5 Outcome of 2021 Review

Having carried out a thorough review of the North Tyneside Lettings Policy, it has been identified that there are no material changes to be made. That the Policy remains fit for purpose following the legislative changes as referenced in section 1.5.3 of this report. The only changes made are minor amendments to text, to provide greater clarity to the existing policy.

1.5.6 Consultation

The outcome of the Lettings Policy Review has been discussed in detail with the Lead Member for Housing and Housing Sub-Committee. There was no requirement for formal consultation as there are no material changes to the Lettings Policy.

1.5 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Agree the recommendation as set out in section 1.2 of this report.

Option 2

Agree the recommendation as set out in section 1.2 of this report, subject to amendments as specified by Cabinet.

Option 3

Not approve the recommendations and refer the content of this report back to officers for further consideration and consultation.

Option 1 is the recommended option.

1.6 Reasons for recommended option:

Option 1 is the recommended option. The review has highlighted that the current policy is fit for purpose and continues to support the efficient and effective management of the housing register and allocation of the Authority's homes. It also continues to play an important role by ensuring those in greatest housing need are accommodated

The proposals contained within Option 1 enable the Authority to continue to comply with statutory duties with no material changes to the current 2019 Lettings Policy.

1.7 Appendices:

Appendix 1 - North Tyneside Council's Lettings Policy 2019

Appendix 2 – Equality Impact Assessment

1.8 Contact officers:

Paul Worth, Senior Manager, Housing Operations, tel: (0191) 643 7554

Liz Archer, Housing Options Manager, tel: (07970) 955 316

1.9 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- [Housing Act 1996](#)
- [The Localism Act 2011](#)
- [The Welfare Reform Act 2012](#)
- [Care Act 2014](#)
- [Allocation of Accommodation: Guidance for local housing authorities in England, June 2012](#)
- [Providing social housing for local people; Statutory Guidance for local authorities in England, December 2013](#)
- [Welfare Reform and Work Bill](#)
- [North Tyneside Homelessness Prevention Strategy 2019 - 2021 and Delivery Plan](#)
- [North Tyneside Housing Strategy 2016 -2021](#)
- [The Homelessness Reduction Act 2017](#)
- [The Homelessness Code of Guidance](#)
- [Domestic Abuse Act 2021](#)
- [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020](#)
- [Improving access to social housing for members of the Armed Forces](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no significant financial costs to the Lettings Policy.

2.2 Legal

Part 6 of the Housing Act 1996 provides that a local housing authority only needs to consult or bring changes to their housing allocation scheme to the attention of interested parties when

making an alteration reflecting a major change of policy. As there are no material changes to the North Tyneside Lettings Policy, a consultation exercise was not required.

The Lettings Policy is an executive function.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Lead Member for Housing and the Housing Sub Committee have been fully consulted on the review process, with no recommended changes coming out of the consultation.

2.3.2 External Consultation/Engagement

As there are no material changes to the North Tyneside Lettings Policy, therefore a consultation exercise is not required.

2.4 Human rights

North Tyneside Council's proposed Lettings Policy is compliant with Article 8 of the European Convention on Human rights – the right to respect for private and family life.

2.5 Equalities and diversity

All equality and diversity implications that may arise from this Policy have been considered. These are highlighted in the Equality Impact Assessment, as set out in Appendix 2.

2.6 Risk management

There are no significant risk management implications arising from this report.

2.7 Crime and disorder

There are no significant crime and disorder implications arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Chief Executive X
- Director(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X

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North Tyneside Council Lettings Policy 2019



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1 Aims and Objectives of North Tyneside Council's Lettings Service

To help people access secure, suitable and affordable homes within North Tyneside, the Authority will:-

- Work with our Registered Provider Partners and Private Landlords to ensure that people seeking a home or those who need to move from their current home, have as much choice as possible over where they live.
- Be an effective partner in the Tyne and Wear Homes Sub-Regional Choice Based Lettings Scheme, to enhance opportunities for housing applicants to move homes within our own Borough and between that of our Tyne and Wear Partners.
- Recognise the support needs of vulnerable people and work with organisations providing care and support, in order that they can access the help they need and where relevant provide help for them to stay in their own home or obtain support in moving home.
- Meet all legislative requirements, including the two primary Housing Acts, 1985 & 1996 and act in accordance with the statutory Codes of Guidance.
- Promote equalities in our service to help ensure that no customer or potential customer is unjustifiably treated less favourably on any grounds, subject to the protected characteristics as defined under s4 of the Equalities Act 2010.
- Contribute to preventing anti-social behaviour and nuisance and promote neighbourhood sustainability.

Our Lettings Service is designed to: -

- Offer as much choice as possible to applicants.
- Provide a fair and transparent service in which people receive the correct priority for housing.
- Meet housing need.
- Support and assist customers to understand how the service works, in order that they can access and use the service.
- Create more sustainable communities, as people who exercise choice over where they want to live are more likely to want to stay there.
- Make efficient use of our resources and those of our partners.

1.1 An Applicant's Rights

Upon request, applicants for housing have the following rights to information. The right to: -

- Free advice and assistance about their housing options.

- Be informed in writing of any decision about their housing application, what facts were taken into account in assessing their application; how their application was treated; what preference is to be given and whether appropriate housing to meet their needs is likely to become available.
- Be notified in writing of any decision that preference will not be given because of unacceptable behaviour.
- Request a review of decisions made on their application and subsequent priority.

Confidentiality and Access to Information

The Data Protection Act 2018 ('the Act') and General Data Protection Regulations 2016 (GDPR) are designed to protect personal data about living individuals (Data Subjects). The Act also places obligations on those organisations that process personal data (Data Controllers). As a Data Controller, the Authority and its Tyne and Wear Homes partners are committed to complying with this legislation by applying the Principles of the Act and GDPR.

The Authority policy on Data Protection can be viewed at <https://my.northtyneside.gov.uk/category/1001/data-protection>

The Authority will seek only information that they require to assess the applicant's application and housing needs. The Authority will collect and keep data in accordance with the Act and GDPR, Authority policy and ICO guidelines on handling personal data.

Confidential information held about applicants will not be disclosed to third parties apart from:

- Where the individual who is the subject of the confidential information has consented to the disclosure
- Where the Authority is required by law to make such disclosures
- Where disclosure is made in accordance with an information sharing protocol

Freedom of Information

Under the Freedom of Information Act 2000, the Authority has been obliged to provide information to anyone who requests it, unless an exemption applies. It is free to make a request, which can be done online at <https://services.northtyneside.gov.uk/freedom/Welcome.aspx>

Subject Access Request

If you are looking for your own personal information, this is handled under the Data Protection Act 2018 as a subject access request, further information can be found on North Tyneside Councils webpage <https://services.northtyneside.gov.uk/freedom/Welcome.aspx>.

Please note that we cannot provide you with personal information about third parties, in doing so will breach the Data Protection Act 2018.

2 Choice Statement: Tyne and Wear Homes

The Authority is a partner of the Tyne and Wear Homes Sub-Regional Choice Based Lettings Scheme that allows applicants to search and apply for available homes from across Tyne and Wear. The four main authorities - Gateshead, Newcastle, North Tyneside, South Tyneside and their respective housing organisations have joined together to bring applicants an easier way to access all of the housing options available.

The scheme aims to promote greater choice and wider housing options through a gateway for accessing affordable housing in the social and private rented sectors and for shared ownership. It provides the applicant with a choice of landlords and tenures.

Mutual exchanges within and between social sectors for existing tenants will be promoted through our Lettings Service.

The Authority must make sure it makes the best use of its available homes.

2.1 Working with Registered Providers and Private Landlords

The Authority will work with Registered Providers and Private Landlords to meet housing need and to offer greater choice.

Applicants who have indicated their interest in Registered Provider's accommodation will be short-listed for nominations using this policy but the Registered Provider may apply their own policies in determining which applicants will be offered accommodation or which applicants they may wish to exclude.

An offer of suitable accommodation from a Registered Provider or Private Landlord to a priority homeless applicant through this scheme, will be regarded as a final offer, discharging the Authority's homeless duty under section 193(5) & (7) of the Housing Act 1996.

2.2 Shared Ownership

Tyne and Wear Homes may advertise shared ownership properties; however the Shared Ownership Organisation will consider any application using their set criteria.

3 Applying for a Home

To register for the Tyne and Wear Homes Scheme, all applicants must complete an application form and they must be registered and accepted before they can participate in the scheme. Applicants can register for the scheme at www.tyneandwearhomes.org.uk

North Tyneside Homefinder is part of the Tyne and Wear Homes Lettings Scheme. All allocations will be made in line with North Tyneside Council's Lettings Policy.

3.1 Sub-regional Applications

If an applicant has applied to the Tyne and Wear Sub-regional Choice Based Lettings Scheme and their application for housing has not been assessed by North Tyneside Council, they will not be able to bid for available homes owned by the Council. Applicants will only be able to bid for available homes, once they have been assessed and accepted onto North Tyneside Council's Housing Register.

3.2 Information Required From Housing Applicants

Housing applicants have a responsibility to provide, either as part of their application or upon request, information which allows a full assessment of their housing needs to be completed. Applicants will be advised of the information required. This will include but is not limited to:-

- Proof of identity of the applicant, any joint applicant or any member of his or her household, including details of any living arrangements
- Photographic identification of applicant and any joint applicant
- National Insurance Number(s)
- Confirmation of nationality and immigration status
- Information on capital and interest and/or equity in a property
- Proof of all financial resources
- Confirmation of residential arrangements for any children
- Confirmation from a medical practitioner of any limiting illness, disability or relevant medical circumstances
- Details of any previous and / or current tenancies and the contact details of the landlord(s). This must be provided for a minimum of the last 6 years or the time elapsed since the applicants 16th birthday
- Details of all unspent convictions
- Suitable references where appropriate. The Authority will request these before an application assessment can be completed and / or at any point prior to an offer being made

All applicants must complete the housing application in full, which means answering all of the questions asked. Where either:-

- the application is not completed in full to allow a full housing assessment to be made or;
- any other information which is requested or needed as part of the housing application is not provided,

The applicant will be advised that they must submit the required information within 21 days of their form being received or their application will be closed.

Where forms are returned to the applicant for completion of information, if the form is returned within 21 days, the original application date will apply.

The Authority will seek references from existing and/or previous landlords or contact relevant agencies to decide whether or not an applicant or anyone registered on their application is ineligible.

Checks can be carried out at any stage of the lettings process to confirm:-

- That the eligibility and qualification criteria are being met
- There is no evidence of anti-social behaviour, harassment or relevant criminal activity
- That there are no current or previous rent arrears or any outstanding housing debt owed to any landlord(s)
- The applicant's financial resources
- That there are no other current or previous breaches of tenancy
- There has been no current or previous damage to properties

3.3 Applicant's Obligation to be Truthful

It is an offence for an applicant to knowingly withhold information that is reasonably required to assess their application or to knowingly or recklessly provide false information that may lead to the applicant being granted a tenancy.

The Authority reserves the right to remove or suspend an applicant from the scheme. Where this happens the applicant will be notified in writing of the decision and of the reasons why. The applicant can request a review of this decision.

The Authority will take appropriate action against any applicant who is successful in obtaining a Council tenancy, after knowingly providing false information or withholding information that is reasonably required to assess their application.

A person guilty of an offence under this section (s171 of Housing Act 1996) is liable, on summary of conviction, to a fine not exceeding Level 5 (the maximum level of

fine, imposed for an offence by law) on the standard scale. In addition the Authority will take action to recover possession of any property to which a tenancy has been granted (Ground 5 of schedule 2 of the Housing Act 1985).

3.4 Change of Circumstances

Applicants are required to notify North Tyneside Council's Homefinder Team of any change in their circumstances that may affect their housing needs or level of priority awarded.

The applicant will be advised in writing of any change in the assessment of their application or eligibility for housing.

3.5 Annual Review of Applications (Renewals)

Applicants are required to renew their application on an annual basis to remain registered on the scheme. Applicants will be notified of this requirement on an annual basis.

Where applicants fail to respond within 28 calendar days, it will be assumed that they no longer wish to be registered on the scheme and their application will be closed.

An applicant may request re-instatement to the scheme. If an applicant requests this within three months they will not need to complete a new application, unless the applicant has changed address or their circumstances have changed. If the applicant does not request reinstatement within three months, they will be required to make a new application and a new application date will apply.

3.6 Cancelled Applications

An applicant will be removed from the scheme where they:-

- Request to be removed
- Accept a tenancy through the scheme as a sole or joint tenant
- Do not respond to correspondence relating to their application that requires a response
- Move and do not advise the Homefinder Team of their new address within 3 months
- Become ineligible, either through the statutory provisions for persons from abroad or through unacceptable behaviour
- Have provided false or incomplete information in or connected with their housing application
- Have exchanged homes through the mutual exchange scheme

Where an applicant has been removed from the scheme, where appropriate, they will be notified in writing.

4 Eligibility – Who Can Register With the Scheme

Any person 18 years or older, together with those falling under paragraph 4.1 below, can be registered for the Tyne and Wear Homes Scheme, unless they are:-

- a) A person from abroad who:-
 - Is not already a secure or introductory tenant or an assured tenant of housing accommodation, allocated to them by a Local Housing Authority and
 - Is ineligible because they are either:-
 - Subject to immigration control within the meaning of the Asylum and Immigration Act 1996 and not in a class prescribed as eligible by the Secretary of State or
 - In a class prescribed by the Secretary of State as ineligible
- b) A person treated by the Authority as ineligible because of 'Unacceptable Behaviour.' (See section 4.2)

Additionally, the Authority is prohibited from allocating accommodation to two or more persons jointly, if any of them is a person who is ineligible or treated as ineligible under the categories set out above.

Information as to the classes of person currently prescribed by the Secretary of State as ineligible for housing, can be obtained from Communities and Local Government at www.communities.gov.uk

4.1 16 and 17 Year Olds

The Authority will accept a housing application from a young person, aged 16 or 17 who is:-

- Homeless, in priority need and owed a duty under Part VII of the 1996 Housing Act
- A child in need, as defined by Section 17 of the Children's Act 1989, considered to be vulnerable and supported by Children's Services or other appropriate support agencies
- Pregnant or a parent with a dependent child

4.2 Assessment of Ineligibility

Before an applicant is considered to be ineligible, the circumstances of their case will be considered in line with the procedural guidance for staff. Information may be sought from any agency to help inform the assessment.

North Tyneside Council reserves the right, when determining the suitability of an applicant, to assess the suitability of all proposed members of the household, not only the applicant(s). This determination can be re-assessed at any point to ensure the suitability of the application as a whole. This will include the way in which any applicant or household member has conducted any current or former tenancies.

The Authority may treat an applicant as ineligible, if satisfied that:-

- Any applicant or any member of the applicant's household has been guilty of unacceptable behaviour in or around the property or in the locality of the property
- The behaviour is serious enough to make the applicant unsuitable to be a tenant under the scheme, and
- In the circumstances at the time the application is considered, the applicant is unsuitable to be a tenant by reason of that behaviour

Unacceptable behaviour (including rent arrears) is defined as behaviour by the applicant(s) or a member of their household which would, if that person had been a secure tenant or residing with a secure tenant of the Authority, have entitled the Authority to a Possession Order under the Housing Act 1985 s84, on any of the grounds mentioned in Part I of Schedule 2 to that Act, other than ground 8.

When it is decided an applicant is ineligible for the scheme, they will be given the reasons for this decision, in writing and will be advised of the conditions they must meet before they can re-apply for the scheme. The onus is on the applicant, not the Authority, to demonstrate in any new application that any unacceptable behaviour has ended. The applicant would need to prove that they have amended their behaviour over a 12 month period.

Applicants must demonstrate that their or a member of their household's behaviour has improved and there have been no further incidents of unacceptable behaviour or that their circumstances have sufficiently changed, as to warrant a new application. The applicant will be required to support this by supplying appropriate evidence, including positive engagement with agencies.

An applicant can be made ineligible at any point and removed from the scheme under the criteria given above, for example if their arrears have increased and/or they have been involved in anti-social behaviour since being accepted onto the scheme.

4.3 Transfer Applicants

Current tenants of North Tyneside Council with no housing need applying for a transfer will not be eligible to go on the Housing Register until they have lived in their

home for period of 12 months or more and shown they have conducted their tenancy satisfactorily. Exceptions to this are:-

- Unable to afford the rent (welfare reform)
- Fleeing Domestic Abuse, ASB or medical need
- Mutual exchanges
- Any other exceptional circumstances

4.3 Applicant's Financial Resources

Home Owners

Where a housing application is received from an applicant who owns their own home, the applicant will be considered to have the financial resources to meet their own housing needs and will therefore not be accepted on to the Housing Scheme.

Exceptions to this are:-

- Those at risk of homelessness or who are in financial hardship as assessed by the Authorities' Housing Options Team
- Those moving into older people's accommodation who are aged 60 years or over where the current level of equity is set against the average price of similar older persons accommodation in the borough.

Resources

Households with sufficient resources to accommodate themselves will be required to complete a financial assessment. If a household's income exceeds the following amounts, they will not qualify to join the housing register:

- Applicants, including transfer applicants, with a combined gross household income of £50,000 per year or more.
- Applicants, including transfer applicants, with savings and or assets, in excess of £100,000.

The Authority will carry out financial checks, which may include credit checks, on any applicant, joint applicant or spouse of the household included on the application, to determine combined household income and savings.

Financial checks may apply to any part of this policy, which requires such an assessment, including at the offer of accommodation stage. Income will include earnings, savings and welfare benefits.

The Authority will not take into account the following in assessment of savings or income:

Exceptions may be made on a case by case basis for example:-

- Any members of the armed forces recently discharged from the forces with a payment due to injury or disability, unless there is an award towards resolving their housing costs.
- Those with severe mobility needs that cannot be met with the funds available.

Where income/savings is derived from the sale of any assets such as a house then the Authority will assume that this sum is available as part of the financial assessment.

If an applicant deliberately deprives themselves of capital or income in order to qualify for housing, they will be treated as still having it for the purpose of the financial assessment. Deliberate deprivation includes gifted money to relatives and friends and payments to third parties that do not form part of authorised loans that are regulated by the Financial Services Authority.

Where an applicant has financial means in excess of the above thresholds, applications will be considered in the following circumstances:

- Where it is not possible to adapt the current accommodation to meet the needs of the owner/occupier's medical condition.
- Where the applicant does not have sufficient resources to adapt the existing accommodation to meet the needs of the owner/occupier's medical condition and they cannot afford to buy or rent suitable, specialist housing.
- The sale of the property would not enable the owner/occupier to purchase or rent an alternative property suitable to their specific medical needs.

If an applicant(s) has sold or transferred ownership of their home within the last three years and the equity from their sale or transfer of ownership is greater than the average house price for similar accommodation, they may be considered ineligible, as it will be deemed that they have enough financial resources to meet their own housing needs. The exceptions given above may apply.

Average house prices in the Borough and financial assessment figures will be reviewed annually.

5 Assessing Housing Need / Reasonable Preference Categories

North Tyneside Council is required by Law to determine the relevant priority that housing applicants are awarded. The Law, as it applies to Local Housing Authorities, requires that reasonable preference must be given to those categories set out in s.167 (2) of the 1996 Housing Act and are as follows:-

- People who are homeless (within the meaning of Part 7 of the Housing Act 1996): this includes people who are intentionally homeless and those who are not in priority need;
- People who are owed a duty under section 190(2), 193(2) or 195(2) of the Housing Act 1996 (or under section 65(2) or 68(2) of the Housing Act 1985) or are occupying accommodation secured by any local authority under section 192(3);
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- People who need to move on medical or welfare grounds, including grounds relating to a disability, this does not include short term or minor medical conditions; and
- People who need to move to a particular locality in the district of the housing authority: where failure to meet that need would cause hardship (to themselves or others).

The Authority will use a banding system to allocate accommodation. In assessing housing need, the Authority will give Reasonable Preference to those applicants who fall into the statutory categories.

North Tyneside Council's Lettings Policy has been devised to ensure it meets the legal obligations to provide overall Reasonable Preference to the above categories of applicants, whilst also prioritising those with a local connection.

5.1 Local Connection

A 'Local Connection' exists where the applicant has a connection with the Borough of North Tyneside because:-

- They have been resident in the Borough, continuously for at least the last 2 years
- They are moving to the Borough for permanent employment
- Of family associations with others living in the Borough. A family member or family association is defined as parents, grandparents, children, brothers or sisters, stepparents, grandchildren, aunts or uncles. Family members must have lived in the Borough continuously for the last 2 years

- The applicant was / is a member of the Armed Forces or former Service Personnel and the application is made within five years of discharge or where a bereaved spouse or civil partner of members of the Armed Forces is leaving Service Family Accommodation, following the death of their spouse or partner or where a serving member or former member of the Reserve Forces who needs to move because of a serious injury, medical condition or disability sustained as a result of being in the forces
- They have been accepted as a priority homeless applicant in North Tyneside and the Authority has a duty to re-house them
- Special Circumstances - Under special circumstances where an applicant has no local connection, a local connection priority may be awarded. Special circumstances may include the need to be near a special medical or support service within the Borough or the applicant or a member of their household is confirmed by the National Witness Mobility Scheme as being on a Witness Protection Scheme

5.2 **Band 1 - Urgent and High Housing Need (applicants with a local connection)**

The Authority will place applicants with an 'urgent and high' housing need in Band 1. 'Urgent and High' housing need applies to the following:-

- a) People who need to move on medical or welfare grounds for one of the following reasons:-
 - i. There is a severe long term limiting illness or permanent and substantial disability where an appropriate specialist health professional has recommended that an immediate move is necessary because:-
 - There is an immediate or substantial risk to life in their current home because of the combination of health and housing circumstances or;
 - It is impossible for the applicant to live in their current home and adaptation is not practical or existing adaptations are no longer effective.
 - ii. The applicant is in hospital or residential care, awaiting discharge to a suitable home and the present home is unsafe or discharge is prevented by their housing situation.

- iii. An applicant's current home does not reasonably allow essential health treatment to be carried out e.g. renal dialysis and adaptation to the home is not possible.
- b) There is a strong likelihood of a child being taken into care if re-housing is not made and this is confirmed by an appropriate social care professional
- c) There is a strong likelihood of admission to residential care of an applicant or member of his / her household, if re-housing is not made and this is confirmed by a health or social care professional
- d) A child experiencing abuse needs to be moved away, to protect their safety and reduce the risk of further abuse from the perpetrator. This has to be confirmed by a health or social care professional.
- e) The applicant is living in insanitary or overcrowded or unsatisfactory housing conditions by virtue of:-
 - i. The household being statutorily overcrowded in their current home
 - ii. The household occupying insanitary or unsatisfactory housing conditions that pose an ongoing significant threat or danger to health, well-being and safety, which is confirmed by an assessment by Environmental Health Officers. However, due regard will be given to any remedial action that can be taken by the tenant, owner or landlord to make the property satisfactory. In the case of owner-occupiers, due regard will be given to their financial circumstances and their vulnerability because of age or infirmity. This may result in the applicant being awarded a lower priority, if they are accepted onto the scheme.
- f) People who need to move to avoid hardship:-
 - i. Applicants whose life is threatened or there is an immediate and substantial risk to life because of violence, including threats of violence or severe harassment. This includes victims of racially motivated attacks, harassment on grounds of disability, crime or witnesses of crime and where there are no alternatives to re-housing.
 - ii. Witnesses of crime who have been confirmed by the National Witness Mobility Scheme as being on a Witness Protection Scheme.

- iii. Applicants who are suffering immediate potential domestic abuse with a serious risk of intimidation amounting to violence, threats of violence or serious harassment, if they were to remain in their current home.
- iv. Applicants who are at immediate risk of serious harm or a Multi-Agency Risk Assessment Conference (MARAC) is recommending urgent re-housing.
- v. Witnesses or victims of crime, who would be at risk of intimidation amounting to violence or threats of violence if they remained in their current home.

Determination of Band 1 status will be made by a Team Leader or above.

All circumstances of the case will be considered and professional, statutory and voluntary agencies may be called upon to provide evidence to confirm the applicant's particular needs.

Urgent and high housing need applicants will be given priority for all homes they are eligible for, unless there is a Local Lettings Scheme in place or a Direct Offer is to be made.

Band 1 status is time limited for 3 months.

Band 1 applicants who are not actively seeking re-housing and who are not participating in the scheme or have refused a direct offer of accommodation may have their application re-assessed and a lower priority may be awarded.

5.3 Band 2 - High Housing Need (applicants with a local connection)

High housing need applies to the following:-

- a) People who need to move on medical or welfare grounds. The applicant or a member of their household or for whom the applicant provides care, has a severe long term limiting illness or permanent and substantial disability, where their quality of life or health is severely affected by the accommodation occupied or by the place in which they live. An established medical need must be demonstrated, such as mental illness or disorder, physical or learning disability, progressive or chronic medical condition.

Examples include but are not limited to:-

- i. The ability to live in the community is at risk without suitable accommodation (and is confirmed by a health professional).

- ii. Where a household member is housebound or cannot reasonably access the essential facilities in the home and an adaptation to the home is not possible.
 - iii. There are concerns about safety, for example through a high risk of falling due to difficulties with access and adaptation to the home is not possible.
 - iv. Applicant's with a diagnosed mental health condition and the applicant is living in conditions which are significantly contributing to a deterioration in their mental health, where a move would prevent deterioration, relapse or exacerbation in their mental health condition and is recommended as being urgent by mental health professionals
- b) People living in insanitary or overcrowded or unsatisfactory housing conditions by virtue of:-

- i. Occupying a home on an assured short-hold tenancy for a minimum of 12 months, where a valid Notice of Seeking Possession has been served and where that Notice has no more than two full calendar months until its expiry date. The applicant would need to undergo a homelessness assessment and be seen to be in priority need but not determined to be intentionally homeless or seen to have deliberately worsening their circumstances.
- ii. Occupying non-secure tenancies and is legally required to vacate their home. (Applicants would need to undergo a homelessness assessment and be seen to be in priority need but not determined to be intentionally homeless or seen to have deliberately worsening their circumstances). This includes people living in supported housing or in accommodation provided as a condition of employment, such as those in Her Majesty's Forces or Tied Tenants of North Tyneside Council. If an applicant leaves the accommodation of their own accord or in circumstances of misconduct, this priority will not be applied.

For those in the Armed Forces, this applies where the applicant is either in the Armed Forces or has been a former member of Service Personnel and their application is made within 5 years of discharge; or the applicant is a bereaved spouse or civil partner of a deceased member of the Armed Forces and they are having to leave the Services' Family Accommodation following the death of their spouse or partner; or the applicant is a serving or former member of the Reserve Forces and needs to move because of a serious injury, medical condition or disability sustained as a result of being in the forces.

If the applicant is still in service, the Band 2 priority will be awarded 6 months prior to the date they are required to leave. This priority will also apply for those leaving of their own accord; however it will not apply to those that have been dishonourably discharged. The priority will only be awarded once.

- iii. The household being over-crowded and the applicant requires two or more bedrooms than they currently have, in line with the Local Overcrowding Definition.
 - iv. The applicant, who must be a North Tyneside Resident, has been approved for foster caring / adoption (by North Tyneside Council) and a larger home is required to facilitate the needs of the family and this is supported by the Adoption and Fostering Caring Service.
 - v. Lacking (not sharing) a bathroom, kitchen or inside WC.
- c) People who need to move to avoid hardship where:-
- i. They are suffering from the effects of serious anti-social behaviour that is severely affecting their health and quality of life, which is supported by the Police.
 - ii. They are suffering domestic abuse, intimidation or harassment, including racial harassment amounting to threats of violence but who are not at immediate risk and can remain in their current home.
 - iii. Young people who are being supported by Children's Services, the Leaving Care Team or who are considered to be vulnerable by a recognised care or support professional and an appropriate care or support service is in place.
 - iv. Supported Accommodation is due to end within the next 3 months and the household is unable to provide their own permanent housing.

All circumstances of each case will be considered and professional statutory and voluntary agencies may be called upon to provide evidence to confirm the applicant's particular needs.

Band 2 applicants with the time limit of 3 months will have their application reviewed to ensure their needs still warrant a Band 2 and those who are not actively seeking re-housing or who have refused suitable offers of accommodation (regardless of the refusal limit), will have their application re-assessed and a lower priority may be awarded.

5.4 **Band 3 - Medium Housing Need (applicants with a local connection)**

Medium Housing Need applies where:-

a) People who are homeless

- Homeless, as defined under Part VII of the Housing Act 1996 and are not owed a full statutory duty to secure accommodation by the Authority. This includes those applicants who are homeless and not in priority need but does not include those who are intentionally homeless. This includes households that are unintentionally homeless but not in priority need and are occupying accommodation secured under section 192(3) of the Housing Act 1996.
- Applicants who are homeless or threatened with homelessness as defined under Part VII of the Housing Act 1996, who are not owed a full statutory duty to secure accommodation by the Authority, as they have been determined to be intentionally homeless. This includes households that are intentionally homeless and in priority need and are occupying accommodation secured under section 190(2) of the Housing Act 1996.

b) People who need to move on medical or welfare grounds:-

- The applicant or a member of his household has a medical need that could be eased or improved by re-housing.

c) The applicant is living in insanitary or overcrowded or unsatisfactory housing conditions by virtue of:-

- i. Sharing a kitchen, toilet and bathing facilities with someone not part of the applicant's household (this does not include invited guests living within the household).
- ii. The state of repair or condition of the property, as confirmed by an Environmental Health Officer. However, due regard will be given to any remedial action that can be taken by the tenant, owner or landlord to make the property more satisfactory.
- iii. Over-crowding and the applicant requires one bedroom more than they currently have, in line with the Local Overcrowding Definition (see section 5.12).
- iv. The applicant or any joint applicant needs to move to the Borough to be near permanent employment.

- v. North Tyneside Council Tenants living in flat or maisonette above the ground floor, with a permanent household child who is aged 5 years or younger and the applicant is finding access to the home difficult due to the stairs.

5.5 Band 4 - Applicants with a reasonable preference but who do not have a local connection

This applies to applicants outlined in sections 5.2, 5.3 and 5.4 but who do not qualify for a local connection.

5.6 Band 5 – Applicants with a General Housing Need who have a local connection

This applies to those applicants who do not have Urgent and High, High or Medium Housing Need but who have a Local Connection.

5.7 Band 6 – Applicants with a General Housing Need with no local connection

This applies to those applicants who do not have Urgent and High, High or Medium Housing Need and do not have a Local Connection.

5.8 Re-assessment of Band 1 and Band 2 Applications

Band 1 applicants will be reviewed when they are not actively seeking re-housing and are not participating in the scheme. Certain categories of Band 2 applicants will be reviewed to ensure their needs still warrant a Band 2 priority.

Where it is identified that applicants are not participating in the scheme and / or have refused suitable offers of accommodation, an applicant's priority can be re-assessed.

5.9 Time-Limited Priority

Band 1 and Band 2 applicants who are subject to a time-limited priority associated with the urgent nature of their housing circumstances, may be granted an extension to their time-limit where:-

- A recommendation has been made for a specific type of accommodation which has not been available
- No suitable accommodation has become available
- The applicant has not come top of the list for any specific properties for which they have bid on

- Personal circumstances have prevented the applicant from being pro-active e.g. after effects of threats of or actual violence or because of severe health reasons
- The applicant was incapable of accessing the scheme, without advice and assistance and this was not available

An extension of time-limited priority will not normally be authorised in any other circumstances. All extensions of time-limited priorities will be authorised by a Senior Officer.

5.10 Additional Priority

The Housing Act 1996 section 167(2E) allows the Authority discretion to allocate housing accommodation to particular types of applicants. The Authority considers it important to give additional priority to existing tenants in the circumstances set out below, to make best use of the stock and to enable existing tenants to exercise choice over where they live and to contribute towards the creation of sustainable communities.

Additional priority will only be given where the tenant has shown a history of being a responsible tenant and the Authority has not taken any action against them for breaches of their Tenancy or Occupancy Agreement.

Additional priority will not be awarded if the tenant owns another property.

5.10.1 Band 2 Additional Priority

This will be awarded to North Tyneside Council Tenants where:-

- They are under occupying their current home by at least 2 bedrooms and they are prepared to take a smaller home that they are eligible for under the Authority's Property Letting Criteria. This priority will not apply if the household wishes to move to a similar sized accommodation. In such cases, the application will be re-assessed and any identified queue position may change.
- They have lived in their current home and have been a tenant for at least 10 years and wish to move to another area of the Borough. The applicable date will be the date of application or after 10 years tenancy has been completed, whichever is latest. This priority will only be awarded if the tenant has complied with the Authorities' Tenancy or Occupancy Agreement. A pre-termination inspection may be carried out to verify the circumstances.

5.10.2 Band 3 Additional Priority

This will be awarded to North Tyneside Council Tenants where:-

- They are under-occupying their current home by at least one bedroom and they are prepared to take a smaller home that they are eligible for, in line with the Authority's Property Lettings Criteria. This priority will not apply if the household wishes to move to a similar sized accommodation. In such cases, the application will be re-assessed and any identified queue position may change.

5.11 Homeless Applicants

In the case of those applicants where the Authority accepts a duty for accommodation, under the Housing Act 1996 s193 (2) and 195 (2), one direct offer of suitable accommodation will be made.

Before making a direct offer, the Authority would need to consider the following:-

- Property eligibility i.e. size and type of home
- Social considerations relating to the applicant and their household, including risk of violence, racial or other harassment in a particular locality
- The suitability of accommodation for households with particular medical and/or physical needs
- The need for support from family where there is a high need

Applicants would have a right to appeal against the suitability of an offer, which will be assessed by a senior officer who has not been involved with the original case.

If the offer of a home is considered suitable to the applicant's needs, this will be classed as a final offer under s193 (7A). If they then refuse the offer of accommodation, the Authority will have discharged its duty under s193 (2) of the Housing Act 1996.

Homeless Reduction Act 2017

- Prevention Stage - this is where free advice by the Authority is given to prevent homelessness and secure accommodation. Personalised Housing Plans are developed and agreed with individual(s). The applicant will be assessed in line with the Lettings Policy.
- Relief Stage - this is where the individual has been has not been successful in the Prevention Stage by being supported to find alternative suitable accommodation. The applicant will be assessed in line with the Lettings Policy.

During the Prevention and Relief stages, if a homeless applicant refuse a reasonable offer they have made a bid for, under their housing application, the Authority's homeless duty under Prevention and Relief will end.

5.12 Overcrowding

Statutorily Overcrowding is determined by a Senior Officer in line with legislation. An assessment will be carried out based upon room size and living space.

The local definition of overcrowding, regards a household as being overcrowded based on the following:-

- The applicant needs two or more bedrooms than they currently have
- The applicant needs one more bedroom than they currently have

In applying this definition a separate bedroom is required for:-

- A single parent
- A couple (including same sex couples)
- Anyone aged 18 years or over
- Anyone aged 18 years or over with a partner
- Up to 2 children under 10 years (regardless of gender)
- Up to 2 children under 18 years of the same gender
- Where there are 2 children of the opposite gender and one of them is aged 10 years or over, a separate bedroom is required for each child

Children have to be permanent members of the household and the household must be their primary residence.

5.13 Unacceptable Behaviour (Not resulting in Ineligibility) / Factors Affecting an Applicant's Priority

An applicant's priority may be reduced where they or a person registered on their application to be re-housed has:-

- A history of rent arrears or other housing debt, which affect their suitability to be a tenant. This will be determined by the seriousness of the arrears and whether this was the result of wilful behaviour
- A history of anti-social behaviour in their neighbourhood or deliberate damage to their own or another's property
- Demonstrated behaviour which was not serious enough to justify a decision to treat the applicant as ineligible
- Any other breach of the tenancy conditions where the behaviour is deemed unacceptable
- Not met the Pre-termination Inspection requirement (North Tyneside Council tenant's only)
- Intentionally worsened their housing circumstances without good reason. For example, a household that has moved into overcrowded accommodation,

making their circumstances worse. This applies to new applicants or applicants who are already registered for re-housing, who have moved within the last 12 months to worse housing conditions than their previous accommodation or who have deliberately overcrowded their current residence without good reason.

This will be done by placing the applicant in the band below that of which they would normally have been placed. Applicants with a local connection, who fall into a reasonable preference category, will not fall below a Band 4.

Applicants with no local connection, who fall into a reasonable preference category, will not fall below a Band 5.

Where an applicant has their priority reduced, they will be notified in writing and may request a review of the decision. The applicant will be notified of any conditions they must meet for their application to be re-assessed. The onus is on the applicant, not the Authority, to request their application to be re-assessed.

In the circumstances where an applicant has an 'urgent and high housing need,' any decision not to reduce the applicant's priority will be made by a Senior Officer.

An applicant can be removed from the Housing Register, if for example, their arrears have increased and/or they have been involved in anti-social behaviour since being accepted onto the scheme.

6 Bidding and Short-listing

All homes that are available for letting are advertised weekly at www.tyneandwearhomes.org.uk and in the local Customer First Centres in North Tyneside. Available homes are advertised from 00:01 on a Thursday until 23:59 the following Monday. This period is known as the Lettings Cycle. Bids can only be placed during a Lettings Cycle. Note: Lettings Cycles are subject to change or cancellation to accommodate Bank Holidays and other holiday periods.

On occasion, landlords may need to withdraw a property from advert, during or after a Lettings Cycle has closed. In this instance applicants have no right to an offer.

Each advertised home will contain information to inform applicants of any set criteria that applies. It will also include information such as the property type, size, area, type of heating and weekly rent, so that applicants can make an informed choice.

Applicants (not where homeless duty has been accepted) can place up to three bids per week on advertised homes (across the sub-region); this can be done on-line, by telephone, in person or through an advocate, such as a care or support worker or family member.

If an applicant is in queue position one (top of the short-list) for more than one property, the applicant will be contacted to decide which property they would prefer. If the applicant cannot be contacted within 24 hours, an Officer will make the decision on what property is to be offered. The applicant is not able to put a hold on more than one property at any given time.

Where more than one applicant applies for an advertised home, the home will be offered to the applicant who is placed in the highest priority band, using the short-listing criteria below. Exceptions to this may apply.

Applicants who have an outstanding offer are not able to bid on other available homes.

Applicants (not where homeless duty has been accepted) are limited to three refusals within a 12 month period.

To assist applicants who have been unsuccessful in bidding, the Authority provides regular feedback on the criteria met by successful bidders. This allows applicants to make more informed choices about future bids they may place.

6.1 Short-listing Criteria

Shortlists are created in the following order:-

- Band 1
 - Date of Priority Award
- Band 2
 - Date of Priority Award
- Band 3
 - Under Occupation (North Tyneside Council Tenants only, who are effected by Welfare Reform)
 - Date of Application
- Band 4
 - Date of Application
- Band 5
 - Date of Application
- Band 6
 - Date of Application

There may be occasions where a home is advertised but is let outside of the normal short-listing criteria by way of a direct offer. In these instances, it will be clearly stated in the advert.

7 Matching Homes and Households

In order to make the best use of the accommodation, it is essential to let homes to those who need that size and type of property. When deciding the size and type of property for which applicants are eligible, the Authority will consider the Household Criteria and the Property Letting Criteria.

7.1 Household Criteria

The following apply in relation to Household Criteria:-

- A child is a person aged under 18 years
- A couple is two people living together as spouses, partners or civil partners
- A single parent household is entitled to the same size accommodation as a two parent household with the same number of children
- For households that include a pregnant woman (proof of pregnancy will be required), the unborn child will be considered in determining the household's requirements
- An older person is defined as someone who is aged 60 years or over
- For couples, only one of the partners has to meet any age requirement and only the person meeting the age requirement would be a tenant
- Households with a disability, refers to a household where at least one of the members has a medical or mobility need which requires them to an adapted property to meet those needs. This needs to be confirmed by a health professional
- Applicants with a shared residence order or staying access for children are not entitled to additional bedrooms for their children, if there are already permanent children residing in the household. The general principle is that children need one home of an adequate size and the Authority will not accept responsibility for providing a second home for children. The shortage of housing locally means that where there are no permanent children in the household, only one extra bedroom will be allocated and will be restricted to certain property types

On advertising an available home the Authority will set out the minimum size of household that can be considered. Applicants must meet the correct household criteria before their application is considered.

7.2 Property Letting Criteria

The Property Letting Criteria will be used in advertising to determine the eligibility of applicants bidding for available homes.

Exceptions may apply, for instance:-

- Where a North Tyneside Council tenant is under-occupying their home by at least one bedroom and they are prepared to take smaller accommodation (this does not include bungalows where the age restriction eligibility remains at 60 years and over)
- If an increase in accommodation size on disability or medical grounds is recommended, for example, in response to the specific needs of a child or adult or a need for a live-in carer (criteria applies)

	Bedsit	1 Bed NT Living	1 Bed Flat	1 Bed Bungalow	1 Bed House	2 Bed NT Living	2 Bed Flat	2 Bed Bungalow	2 Bed House	2 Bed Maisonette	3 Bed Flat	3 Bed Bungalow	3 Bed House	3 Bed Maisonette	4 Bed Bungalow	4 Bed House / Flat / Maisonette	5/6/7 Bed House
Single person	●		●		●												
Single person aged 60 years or over	●	●	●	●	●												
Single person with overnight access to 1 child or 2 children of the same sex	●		●		●		●			●							
Single person with overnight access to 2 or more children	●		●		●		●			●							
Single person with a need for a resident / overnight carer							●	●	●	●							
Single person requiring level access accommodation (see note below)			●	●													
Couple with overnight access to 1 child or 2 children of the same sex			●		●		●		●	●							
Couple with overnight access to 2 or more children			●		●		●		●	●							
Couple			●		●		●		●	●							
Couple where one or both is aged 60 years or over		●	●	●	●	●	●	●	●	●							
Couple where one requires level access accommodation (ground floor)			●	●			●	●									
3 adults not living together as a couple							●		●	●							
3 adults where none are partners											●		●	●			
3 adults where none are partners and where one is aged 60 years or over											●	●	●	●			
Families with 1 child							●		●	●							
Families with 2 children							●		●	●	●		●	●			
Families with 3 children											●		●	●		●	
Families with 4 or more children, depending on family size & make-up											●		●	●		●	●

● Black Dots A household can apply and be considered for any of these homes

No Dots A household may be considered for these homes, only if there is no demand from any eligible applicants and / or if there is no age restriction in place or the age restriction has been lowered

The above is only for guidance only and does not include all household types and sizes.

7.2.1 Bungalows

Bungalows will only be allocated to applicants aged 60 years and over, unless they are purpose built for disabled applicants. Bungalows may be offered to applicants under the age of 60 years, outside of the Letting's Policy, where a member of the household have been assessed as requiring ground floor accommodation and meets the Authority's Disability Criteria or where a mental health issue has been confirmed and no other accommodation type is deemed suitable. Therefore any applicants(s) not meeting these criteria will only be eligible for a ground floor flat.

In the allocation of bungalows to couples, where only one applicant is aged 60 years or over, the tenancy will be granted as a sole tenancy to the applicant who is aged 60 years or over or to the applicant whose circumstances have led to the allocation of the home.

7.2.2 North Tyneside Living

North Tyneside Living offers high quality rented accommodation, exclusive for people aged 60 and over, allowing them to continue to live independently in their own home.

Apartments provide private living space, with their own secure front door and high specification interior. Communal areas include a hair salon / therapy room, laundry facilities and lounges, which can provide a focal point for social interaction and inclusion. This is an essential part of ensuring vibrancy and maintaining independence.

Where it is considered an applicant may not be suitable for North Tyneside Living accommodation, they will be advised accordingly in writing. The applicant will have the right to request a review of the decision.

In the allocation of North Tyneside Living homes to couples, where only one applicant is aged 60 years or over, the tenancy will be granted as a sole tenancy to the applicant who is aged 60 years or over or to the applicant whose circumstances have led to the allocation of the home.

Children are not permitted to reside in North Tyneside Living accommodation.

7.2.3 Properties Suitable for People with a Disability

Where homes are specially built or have been significantly adapted for person(s) with a disability, only applications where at least one member of the household is regarded as having a physical disability will be considered.

In these cases the home may be allocated directly to the most appropriate applicant. The needs of the household and the type of home being allocated will be considered; therefore the shortlist position does not guarantee an offer.

7.2.4 Flats and Maisonettes

Applicants with children under 10 years cannot be considered for flats with a shared / communal entrance. This will not apply to applicants who have overnight staying access or shared residency to children.

7.3 Restrictions on Property Type and Location Requirements

Applicants who have been awarded a priority on health grounds or because they are fleeing harassment or violence, may require a specific area or property type, as a result of their disability or health condition.

The priority may be awarded with a recommendation for a specific type of property, e.g. ground floor accommodation. It may also be awarded with regards to support needs and / or the safety of the applicant. In such cases, there will normally be some restrictions on where the applicant can bid on, in relation to the location, property type or acceptance of support.

Consultation may be necessary with appropriate agencies or health professionals in determining what these restrictions should be. These could include, only being able to bid on a property, which is in:-

- A location specifically recommended by a health professional, support agency or statutory agency, where it would increase the chances of the applicant maintaining a tenancy successfully
- An area where the applicant(s) or a member of the household's personal safety will not be compromised, if they are being allocated priority due to risk of violence or harassment of any kind

8 Offers of Accommodation

All offers of accommodation are conditional upon the applicant continuing to meet the necessary criteria and qualification, up to the point of the signing of a Tenancy or Occupancy Agreement. Verification / eligibility checks in line with this policy will be conducted on all successful bids, to determine that the applicant(s):-

- Are still eligible under the scheme
- Their household size matches the property
- Their household meets the advertised Letting Criteria

In addition to this, North Tyneside Council (and its partner Landlords), will be entitled to carry out an affordability assessment to ensure that any tenancy offered will be sustainable. The assessment will be based on the actual income and expenditure of the applicant(s). Where the Landlord considers the applicant cannot afford the level of rent attributed to a property, no offer of accommodation will be made and any existing conditional offer will be withdrawn. Applicants will have a right to request a review of the decision but such properties will not be held pending the decision.

Prior to any offer of accommodation being made to a North Tyneside Council tenant, the following conditions relating to the applicant's present home will be assessed:-

- The internal condition by way of cleanliness and decorative standards are satisfactory
- The conditions of the gardens are satisfactory

This will be determined by a pre-termination inspection / home visit prior to an offer being made.

Any outstanding housing debt will be considered before any offer of accommodation is made.

Prior to any offer of accommodation being made to a 'none' North Tyneside Council tenant; reference(s) will be sought from their current and / or previous landlords(s) to determine that their tenancy has been conducted satisfactorily.

If any of the above are found to be unsatisfactory, a review of the applicant's application will be carried out, which may result in ineligibility or a reduced priority and the withdrawal of any conditional offer of a property.

If there has been either:-

- material changes to the circumstances declared by the applicant (for example, in the household size or their health or medical condition) resulting in a likely

change in the level of priority awarded to the application or the type and size of property for which they are eligible; Or,

- The applicant or a member of their household is guilty of unacceptable behaviour

Then a review of the applicant's application will be carried out, which may result in ineligibility or a reduced priority and the withdrawal of any conditional offer of a property.

At the offer viewing stage, the applicant will be given up to 48 hours to decide if they wish to accept the home. A longer period may be agreed with a Housing Officer at the time, where the circumstances of the applicant warrant a longer period.

An offer can be withdrawn at any point up to the signing of a Tenancy or Occupancy Agreement.

8.1 Offers to Applicants with Pets

Certain pets cannot usually be kept in properties with a shared entrance; applicants will be informed of any restrictions in any property advert and at the time of the offer.

8.2 Restricting Refusals

Applicants, who have refused three offers of accommodation made by North Tyneside Council within a 12 month period, will have their application suspended for six months. After the suspension period, it is the applicant's responsibility to request for their application to be reinstated. This must be requested within 3 months of the six months suspension, otherwise a new application will need to be made and any previous priority awarded will no longer apply.

Where an applicant continues to refuse offers of accommodation, the application may be re-assessed and a lower priority awarded and or removed from the housing scheme.

9 Lettings outside of the Allocation Scheme

The Authority is permitted by law to allocate property outside of the provisions of the Allocation Scheme in particular circumstances. Some examples have been included within the policy for completeness:-

- If due to demolition or regeneration of a North Tyneside Council property, the Authority needs to find a new home for the occupant.
- When employment ceases for Tied Tenants of the Authority and their accommodation is required for the continuation of the Service. This will not apply if their employment is ending due to misconduct or if the employee is leaving of their own accord.
- To an existing tenant who has succeeded to a North Tyneside Council Tenancy on death of the previous tenant but the property is more extensive than is required according to their household circumstances and the Authority considers it reasonable to move them to a more appropriately sized property.
- To an existing tenant or joint tenants, who have requested a move to a smaller property because they occupy a property with substantial adaptations which are no longer needed by the household and the Authority believes a transfer to another property would assist with the more efficient use of housing stock.
- High-risk offenders will be made a direct offer following the agreement between the Authority and other relevant agencies, such as the Probation Service and / or the Police, where this is in the interest of public protection. This is intended to support the multi-agency approach to risk management (MAPPA), adopted for such a category of applicant.
- Direct offers to applicants with 'exceptional circumstances' that are not covered within the policy. Authorisation for these direct offers can only be made by the Head of Service in consultation with the Cabinet Portfolio Holder.

9.1 Direct Offers / Direct Lets

It is our aim to advertise as many homes as possible through the Tyne and Wear Homes Scheme but there may be circumstances where the Authority will make a Direct Offer, which means allocating a home without advertising it. There may also be circumstances where a home is advertised but later withdrawn.

A direct offer can be made regardless of the Band awarded.

Examples of when this may happen are:-

- Applicants where the Authority has accepted a full duty to a homeless applicant
- Witness Protection (Supported by the Police)

- Applicants who are assessed as being high-risk offenders
- Urgent and high need applicants placed in Band 1 may be made a direct offer in order to expedite re-housing
- Any other 'exceptional' circumstances will be considered at the discretion of the Head of Service

A Senior Officer must authorise any direct offer, prior to the offer being made.

When an applicant has a direct offer pending, no further bids can be made.

9.2 Restriction on Choice

A choice of accommodation will be restricted to certain applicants, such as high risk offenders, where the need to manage the risk which they pose to other individuals or the community in general, limits the amount of choice they can reasonably be allowed.

High-risk offenders will be made a 'direct offer' following the agreement between the Authority and other relevant agencies such as the Probation Service and / or the Police, where this is in the interest of public protection. This is intended to support the multi-agency approach to risk management, Multi-Agency Public Protection Arrangements (MAPPA), adopted for such a category of applicant.

10 Local Lettings Policies

The Authority may adopt Local Lettings Policies for specific estates, types of property or areas.

The criteria for adopting a Local Lettings Plan are as follows:-

- The need for a Local Lettings Plan can be identified from local residents, officers of the Authority, local housing landlords, key stakeholders within the community or elected members.
- Full consultation with all key stakeholders, including residents must take place.
- The need for a Local Lettings Plan must be evidenced and demonstrated using a range of factors, including demographics, property type demand, crime and anti-social behaviour reports and complaints.

A report on the proposed Local Lettings Policy with supporting evidence must be considered and agreed by the Head of Service and the appropriate Cabinet Member.

Local Lettings plans will be reviewed on an annual basis.

11 Staff Lettings

Applications from:-

- Employees who work for North Tyneside Council
- Elected Members of North Tyneside Council
- Family of an employee or Elected Members

Will be treated in same way as any other application, no undue favour will be shown and neither will it be disadvantaged. A designated Senior Officer must authorise any offer to an applicant falling into any of the above categories.

12 Right to Review

The Authority will inform an applicant, in writing, of any decision relating to their housing application.

Applicants will have a right to request a review (Housing Act 1996 s 166A (9) (c)) of any decision made by the Authority, this may include:-

- Ineligibility
- Reducing the priority of the application
- The preference or priority awarded to their application, including the removal of preference because of unacceptable behaviour or any change in circumstance

An applicant must request a review in writing within 21 days of being notified of a decision. Their request must state all the aspects of the decision they wish to be reviewed. As an applicant is only entitled to one request for a review, any aspect of the decision letter not referred to in their request, cannot be referred to at a later date.

Reviews will be carried out by a Senior Officer who was not involved in the original decision. The Senior Officer will, where appropriate, seek information from all parties who provided information which contributed to the original decision.

The Authority will notify the applicant of the outcome of any review, including a full explanation of how the decision was arrived at. This will be sent to the applicant and any nominated representative.

If an applicant continues to be dissatisfied, they may make a complaint through North Tyneside Council's complaints procedure. If they consider that an injustice has been caused due to maladministration, they may contact the Housing Ombudsman. The contact details are: Housing Ombudsman Service, PO Box 152, Liverpool, L33 7WQ; Tel: 0300 111 3000, email: info@housing-ombudsman.org.uk, www.housing-ombudsman.org.uk

13 Monitoring and Reviewing the Lettings Policy

13.1 Monitoring

To ensure that the policy and procedures are fair and non-discriminatory and that service standards are being met; standards and key performance indicators will be set in consultation with participants.

The Authority will monitor the effectiveness of the Lettings Policy by:-

- Publishing the results of lettings made through the Lettings Scheme and by Direct Lettings
- Monitoring all lettings by protected characteristics to eliminate discrimination
- Nominations will be monitored by the sub-regional partnership
- Publishing an Annual Report on lettings, including performance information on lettings
- Auditing the implementation of the Lettings Policy

The Authority will use this performance monitoring information to analyse current and future housing needs and to inform future reviews of the Lettings Policy.

13.2 Review

The policy will be reviewed periodically but at least biennial. Where appropriate the review will be conducted in consultation with applicants, tenants and key stakeholders.

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Equality Impact Assessment (EIA)

Before completing this form, please refer to the supporting guidance documents which can be found on the equality page of the intranet. The page also provides the name of your Corporate Equality Group member should you need any additional advice.

Equality Impact Assessments (EIAs) are a planning tool that enable us to build equality into mainstream processes by helping us to:

- consider the equality implications of our policies (this includes criteria, practices, functions or services - essentially everything we do) on different groups of employees, service users, residents, contractors and visitors
- identify the actions we need to take to improve outcomes for people who experience discrimination and disadvantage
- fulfil our commitment to public service.

The level of detail included in each EIA should be proportionate to the scale and significance of its potential impact on the people with protected characteristics.

This assessment may be published on the Authority's website as part of a Council or Cabinet Report. It can also be requested under the Freedom of Information Act 2000 and can be used as evidence in complaint or legal proceedings.

Proposal details

1. Name of the policy or process being assessed	North Tyneside Lettings Policy	
2. Version of this EIA (e.g. a new EIA = 1)	1	
3. Date EIA created	09/12/2021	
	Name	Service or organisation
4. Principal author of this EIA	Rachael Sanderson	Housing, Property & Construction
5. Others involved in writing this EIA <i>EIAs should not be completed by a sole author. Think about key stakeholders and others who can support the process and bring different ideas and perspectives to the discussion.</i>	Paul Worth – Senior Manager – Housing Operations Liz Archer – Housing Options Manager	Environment, Housing & Leisure Environment, Housing & Leisure

6. What is the purpose of your proposal, who should it benefit and what outcomes should be achieved?

Proposed minor changes to North Tyneside Council’s Lettings Policy.

The Lettings Policy sets out the way in which Council Housing is allocated. North Tyneside Council’s Lettings Policy was reviewed in 2019, it is good practice to review the letting policy every two years in order to respond to policy changes and the local housing market.

There were a total of 4 significant changes made as part of the 2019 Lettings Policy review, all work well and since then no significant legislative changes have come into play, the current policy fulfils our responsibility to all of our tenants to ensure people are living in accommodation most suitable to their needs, to rehouse those in the most housing need, and to let homes in the most efficient and effective way. Key considerations as part of the 2021 review:-

- Domestic Abuse Act 2021 – the requirements of the Act are met by the existing Policy.
- EU nationals – following a change in status for EEA citizens, it has been confirmed that this is covered by current policy.
- Ineligibility due to Rent Arrears considering current climate, met by existing Policy.
- The inclusion of Armed Forces families, met by the existing Policy.

7. Does this proposal contribute to the achievement of the Authority’s public sector equality duty? Will your proposal:

Write your answers in the table

Aim	Answer: Yes, No, or N/A	If yes, how?
Eliminate unlawful discrimination, victimisation and harassment	Yes	No evidence of discrimination has been found previously but this EIA will help us to verify that lettings are fair and equitable.
Advance equality of opportunity between people who share a protected characteristic and those who do not	Yes	The Lettings Policy aims to ensure that applicants receive the correct priority for housing in line with their needs.

Foster good relations between people who share a protected characteristic and those who do not	Yes	The Tyne and Wear Homes process allocates homes to people from all communities and backgrounds in North Tyneside. Procedures are in place to ensure any prejudices that may be encountered are addressed; this will help foster good relations.
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Evidence Gathering and Engagement

8. What evidence has been used for this assessment?

Engagement activities undertaken include meeting with Portfolio Lead and Members.

9.a Have you carried out any engagement in relation to this proposal?

	√
Yes - please complete 9b	√
No	

9.b Engagement activity undertaken	With	When
Meeting with Portfolio Lead	Councillor Cox	30/09/2021
Meeting with Housing Sub Committee	Members	11/10/2021

9. Is there any information you don't have?

	√	Please explain why this information is not currently available
Yes - please list in section A of the action plan at Q13		
No	√	

Analysis by protected characteristic

	A	B	C
11. Protected characteristic	Does this proposal and how it will be implemented have the <u>potential</u> to impact on people with this characteristic? (Answer – Yes or No)	If ‘Yes’ would the <u>potential</u> impact be positive or negative? (Answer – positive or negative)	Please describe the <u>potential</u> impact and the evidence (including that given in Q8 and 9) you have used
All Characteristics			
Sex – male or female	No		There is no specific impact to sex for this strategy. The letting of properties will be in accordance with our policy and there is no reason to believe that the proposals would have any greater or lesser effect on people on account of their sex.
Pregnancy and maternity – largely relates to employment, but also to some aspects of service delivery e.g. for breastfeeding women	No		We have no reason to believe that the proposals would have any greater or lesser effect on people on account of pregnancy and maternity.

<p>Age – people of different ages, including young and old</p>	<p>Yes</p>	<p>Positive</p>	<p>The aim of the policy is to ensure best use is made of housing stock in North Tyneside.</p> <p>Some properties do have an age restriction to be eligible to reside in them. This will be considered when letting a home in accordance with this policy.</p> <p>The equity/savings of people aged over 60 who apply for North Tyneside Living properties (older person's accommodation) has been set against the average price of similar older persons accommodation in the borough. This figure will be reviewed on an annual basis and is currently incorporated in the Lettings Policy.</p>
<p>Disability – including those with visual, audio (BSL speakers and hard of hearing), mobility, physical, mental health issues, learning, multiple and unseen disabilities</p>	<p>Yes</p>	<p>Positive</p>	<p>The aim of the policy is to ensure best use is made of housing stock in North Tyneside and housing needs are met. This includes properties for people with a disability who may require additional support including adaptations.</p> <p>The letting of properties will be in accordance with this policy.</p> <p>The policy can be made available in a range of formats for people to access, including audio, large print, easy read, BSL video, web based or a paper copy can be sent to them.</p> <p>Vulnerable customers may find it difficult to bid for a home or understand how the Homefinder process works.</p> <p>Contact for the service is widely promoted. In the majority of circumstances, customers usually arrange support to directly access the system via friends, family and support services. Where there is no support available, the Homefinder Team can help register customers over the telephone. Autobids are available, where required, or details of adverts and placing bids can again be arranged with the team over the phone or by visiting a Customer</p>

			<p>First Centre.</p> <p>Safeguards are put in place to ensure that offers are suitable. The implementation of this is carefully monitored, including making use of information about protected characteristics and reviewing procedures.</p> <p>The current policy allows that for applicants with a priority homeless status to be made a direct offer of accommodation rather than being able to bid for available homes. In processing a direct offer, the needs of the customer are taken into account, in identifying a suitable property.</p> <p>Armed Forces personnel leaving Service Family Accommodation, following the death of their spouse or partner or where a serving member or former member of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of being in the forces are noted in the policy in line with the Armed Forces guidance.</p>
<p>Gender reassignment - includes trans, non-binary and those people who do not identify with or reject gender labels</p>	Yes	Positive	<p>The policy allows for applicants' accounts to be suspended for a period of six months where they have rejected three or more offers over a twelve month period, including those who are undergoing or have undergone gender reassignment, some areas /properties may not feel safe and therefore they may be detrimentally impacted by this measure. It is therefore important that safeguards are put in place to ensure that offers are suitable. The implementation of this is carefully monitored, including making use of information about protected characteristics and reviewing procedures.</p>
<p>Race – includes a person's nationality, colour, language, culture and geographic origin</p>	Yes	Positive	<p>The proposed policy change allows for applicants accounts to be suspended for a period of six months where they have refused three or more offers over a twelve month period. Safeguards are put in place to ensure that offers are suitable</p>

			<p>and that the proposal is sensitively implemented, particularly with regard to minority groups. The implementation of this proposal is carefully monitored, including making use of information about protected characteristics.</p> <p>The policy can be made available in a range of formats, including key community languages. A paper copy can be sent to a household if requested.</p>
<p>Religion or belief – includes those with no religion or belief</p>	Yes	Positive	<p>The Lettings Policy and procedure is sensitive to the needs and requirements of applicants who are suffering from harassment and hate crime as a result of their religion or faith.</p>
<p>Sexual orientation – includes gay, lesbian, bisexual and straight people</p>	No	N/A	<p>We have no reason to believe that the policy would have any greater or lessereffect on people on account of sexual orientation.</p>

Marriage and civil partnership status - not single, co-habiting, widowed or divorced– only relates to eliminating unlawful discrimination in employment	No	N/A	We have no reason to believe that the policy would have any greater or lesser effect on people on account of marriage and civil partnership status.
Intersectionality - will have an impact due to a combination of two or more of these characteristics	No	N/A	We have no reason to believe that there would be any specific impact to intersectionality for this Policy.

If you have answered **'Yes'** anywhere in column A please complete the rest of the form, ensuring that all identified negative impacts are addressed in either Q12 'negative impacts that cannot be removed' or Q13 'Action Plan' below

If you have answered **'No'** in all rows in column A please provide the rationale and evidence in the all characteristics box in column C and go to Q14 'Outcome of EIA'.

12.a Can any of the negative impacts identified in Q11 not be removed or reduced?

Yes - please list them in the table below and explain why	
No	√

12.b Potential negative impact	What alternative options, if any, were considered?	Explanation of why the impact cannot be removed or reduced or the alternative option pursued.

Action Planning (you do not need to complete the grey cells within the plan)

13. Action Plan	Impact: (Answer remove or reduce)	Responsible officer (Name and service)	Target completion date
Section A: Actions to gather evidence or information to improve NTC's understanding of the potential impacts on people with protected characteristics and how best to respond to them (please explain below)			
Section B: Actions already in place to remove or reduce potential negative impacts (please explain below)			
Disability - Applicants can bid for homes online, by contacting the Council First Centres or by Auto-bid (this is set up for vulnerable customers).	Reduce	Liz Archer/ Paul Worth	
Gender reassignment - safeguards are put in place to ensure that offers are suitable. The implementation of this is carefully monitored, including making use of information about protected characteristics and reviewing procedures.	Reduce	Liz Archer/ Paul Worth	
Race - Safeguards are put in place to ensure that offers are suitable and that the proposal is sensitively implemented, particularly with regard to minority groups. The implementation of this proposal is carefully monitored, including making use of information about protected characteristics.	Reduce	Liz Archer/ Paul Worth	
Section C: Actions that will be taken to remove or reduce potential negative impacts (please explain below)			
There are no negative impacts identified. This will be reviewed on a regular basis.		Liz Archer	
Section D: Actions that will be taken to make the most of any potential positive impact (please explain below)			
Inform residents and tenants of the policy and how to access.		Liz Archer/ Paul Worth	

Section E: Actions that will be taken to monitor the equality impact of this proposal once it is implemented (please explain below)			
The Lettings Policy will be reviewed every 2 years, or as a result of changes in legislation and/or regulation or in line with business needs.		Liz Archer/ Paul Worth	2023
Section F: Review of EIA to be completed		Rachael Sanderson	2023 (one year after it has been adopted)

14. Outcome of EIA

Based on the conclusions from this assessment:

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Outcome of EIA	Tick relevant box	Please explain and evidence why you have reached this conclusion:
The proposal is robust, no major change is required.	√	The policy works well and fulfils our responsibility to all of our tenants to ensure people are living in accommodation most suitable to their needs, to rehouse those in the most housing need, and to let homes in the most efficient and effective way.
Continue but with amendments		
Not to be pursued		

Now send this document to the [Corporate Equality Group member for your service](#) for clearance.

Quality assurance and approval

Questions 15-18 are only for completion by the Corporate Equality Group Member for your service

15. Do you agree or disagree with this assessment?	Agree		Disagree	
16. If disagree, please explain:				
17. Name of Corporate Equality Group Member:				
18. Date:				

Conclusion:

- If the assessment is agreed, please send the document to the Head of Service for sign off.
- If you disagree return to author for reconsideration.

Questions 19-22 are only for completion by the Head of Service

19. Do you agree or disagree with this assessment?	Agree		Disagree	
20. If disagree, please explain:				
21. Head of Service:				
22. Date:				

Please return the document to the Author and Corporate Equality Group Member.

North Tyneside Council Report to Cabinet Date: 24 January 2022

Title: Review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy

Portfolio: Community Safety and Public Protection	Cabinet Member: Councillor Carole Burdis		
Report from Service Area:	Environment, Housing and Leisure		
Responsible Officers:	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Phil Scott Director of Environment, Housing and Leisure</td> <td style="width: 40%; text-align: right;">Tel: (0191) 643 7295</td> </tr> </table>	Phil Scott Director of Environment, Housing and Leisure	Tel: (0191) 643 7295
Phil Scott Director of Environment, Housing and Leisure	Tel: (0191) 643 7295		
Wards affected:	All		

PART 1

1.1 Executive Summary:

The government has issued statutory taxi and private hire vehicle minimum standards to licensing authorities entitled 'Statutory Taxi & Private Hire Vehicle Standards' ("the Standards"). The Standards outline how licensing authorities should carry out their licensing functions in relation to Hackney Carriage (taxis) and Private Hire vehicles, drivers and where appropriate operators. Although the minimum standards focus on protecting children and vulnerable adults, all passengers will benefit from the application of the Standards.

It is clear that central government expects the recommendations contained in the Standards to be implemented unless there is a compelling local reason not to. As a result of that expectation it has been necessary for the Authority to review its Hackney Carriage and Private Hire Licensing Policy ("the Policy") in light of the recommendations contained in the Standards.

This report presents to Cabinet a revised draft of the Policy which has been developed following the publication of the Standards and seeks permission to delegate authority to the Director of Environment, Housing and Leisure to commence a process of public consultation on the updated Policy and for a further report to be presented to Cabinet at the end of the consultation period seeking approval to the adoption of the Policy.

1.2 Recommendation:

It is recommended that the Cabinet:

- (1) authorise the Director of Environment, Housing and Leisure to commence public consultation on the revised draft North Tyneside Hackney Carriage and Private Hire Licensing Policy at Appendix 1 to this report; and
- (2) agree that a further report be received by Cabinet at the conclusion of the public consultation process when Cabinet will be asked to agree to the adoption of the revised North Tyneside Hackney Carriage and Private Hire Licensing Policy.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 26 November 2021.

1.4 Council Plan and policy framework:

This report relates to the following priorities in the 2021 – 2025 Our North Tyneside Plan:

A thriving North Tyneside :

- We will bring more good quality jobs to North Tyneside - by helping local businesses to sustain and grow, making it attractive for new businesses to set up or relocate in the borough.

A caring North Tyneside:

- People will be cared for, protected and supported if they become vulnerable, including if they become homeless.

A secure North Tyneside:

- Council wardens will work in partnership with Northumbria Police to prevent and tackle all forms of antisocial behaviour.

1.5 Information:

1.5.1 Local context

The Authority is the licensing authority for hackney carriages (taxis) and private hire vehicles (PHVs), their drivers and their operators, for the Borough. The overall aim of the licensing scheme is to ensure the safety of the public.

The North Tyneside Transport Strategy, approved by Cabinet in May 2017, commits to managing North Tyneside's transport network effectively, considering all forms of travel including taxis and PHVs and sets out how the Authority will support the safeguarding of vulnerable people, such as through hackney carriage and private hire licensing policies and the design of infrastructure.

The North Tyneside Local Plan notes that taxis and PHVs will continue to play an important role in the wider transport network and that opportunities to integrate them with other modes of transport will be explored. The regional North East Transport Manifesto sets out objectives to integrate taxis into the public transport network with better interchange and information, ensure high standards of licensing and provision, and encourage greater use of low emission technologies in taxi fleets.

1.5.2 Existing licenses in North Tyneside

The Authority licenses around 141 taxis, 651 PHVs, 878 drivers and 19 operators in the Borough. These licenses have been granted in accordance with national legislation and consideration of the Policy.

The licensing service is based at the Killingworth site and it is responsible for administrating and enforcing the licensing scheme.

The Policy includes information on legal requirements, procedures and standards relevant to taxi and PHV licensing.

The Policy was last reviewed in February 2020 prior to the release of the new Statutory National Standards for taxis and private hire vehicles.

1.5.3 National context

The legislation which governs taxi and PHV licensing has been in place for a considerable period of time. This has been subject to previous review and amendment and in 2014, the Law Commission was asked by the Government to consider the legislation relating to taxis and PHVs. Whilst the Law Commission's report acknowledged that the licensing of taxis and PHVs is a "fiercely local" matter, it nevertheless recommended the introduction of national standards.

Some of the recommended changes were introduced through the Deregulation Act 2015, for example: extending licences from one year to three years, and allowing sub-contracting between operators.

In July 2020 the Department for Transport (DfT) produced the Standards under the Policing and Crime Act 2017 which, as stated, the Department expects to be implemented by all licensing authorities.

1.5.4 Review of licensing policy and public engagement

It is in this context that a review of the Policy was commenced.

An officer working group was set up to commence the review of the Policy and make the required amendments to the Policy to reflect the new Statutory Standards.

As part of the consultation process the views of all Members of the Authority will be sought. To this end, the Monitoring Officer at the start of the consultation period will write to all Members inviting them to make any comments they have on the Policy and to forward those to the Public Protection Manager. This will enable any views received from Members and/or the Regulation and Review Committee together with any other consultation responses to be taken into account when the decision on adopting the Policy is taken by Cabinet.

A revised draft Policy for consultation purposes has been formulated and this is included in Appendix 1 to this report.

The key amendments proposed to the Policy include:

- Introduction of Basic Disclosure and Barring Service (DBS) criminal record check for vehicle proprietors
- Requirement of operators to maintain a register of booking staff and confirmation they have had sight of a Basic DBS certificate for such staff
- Periods for individuals to be free of convictions to be able to hold a licence has changed in line with the Standards
- New Passenger Guidance document
- The Authority making a referral to the DBS and the police following refusal/revocation of a driver's licence where appropriate.

A summary of the amendments is included in Appendix 2 to this report.

It is proposed that a process of public engagement on the proposed updated Policy will commence on 7 February 2022 for 6 weeks. This will include appropriate engagement through the Engagement Hub with residents and businesses including representatives of the taxi and PHV trade; Regulation and Review Committee; and all Members.

At the conclusion of the consultation period the draft Policy will be brought before Cabinet for its consideration.

1.6 Decision Options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet approves the recommendations at paragraph 1.2 of this report.

Option 2

Cabinet does not approve the recommendations at paragraph 1.2 of this report.

Option 3

To instruct officers to make amendments to the Policy and to bring a further report to Cabinet for it to consider those amendments before consultation commences.

Option 1 is the recommended option.

1.7 Reasons for Recommended option:

Option 1 is recommended to ensure that the existing Policy is updated in accordance with the Standards. This will also ensure that the Policy remains transparent, accountable, proportionate and consistent.

1.8 Appendices:

Appendix 1: Revised draft North Tyneside Council Hackney Carriage and Private Hire Licensing Policy

Appendix 2: Schedule of amendments to the Policy

1.9 Contact Officers:

Colin MacDonald, Senior Manager Technical & Regulatory Services, (0191) 643 6620

Joanne Lee, Public Protection Manager, (0191) 643 6901
Stephanie Graham, Senior Licensing Officer, (0191) 643 6969
John Barton, Lawyer, (0191) 643 5354
David Dunford, Senior Business Partner, (0191) 643 7027

1.10 Background Information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- 1) [North Tyneside Local Plan](#)
- 2) [North Tyneside Transport Strategy \(approved by Cabinet on 8 May 2017\)](#)
- 3) [Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades, Institute of Licensing, April 2018](#)
- 4) Statutory Taxi and Private Hire National Standards

[Statutory guidance overview: Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](#)

- 5) [Equality Impact Assessment](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

There are no financial implications directly arising from the report. The costs of preparing the revised North Tyneside Council Hackney Carriage and Private Hire Licensing Policy and the associated consultation arrangements can be met from existing revenue budgets.

2.2 Legal:

Taxi and Private Hire Vehicle (PHV) legislation is primarily concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The legislation provides a broad framework for the licensing of drivers, vehicles and operators whereas the detail of how this is done, including standards and conditions, is the responsibility of licensing authorities.

There are a number of other Acts which are also relevant: for example, the Equalities Act 2010 which places a duty on local authorities to take steps to meet the needs of those with a protected characteristic such as the need for the Authority to provide a list of wheelchair accessible taxis and PHVs.

Whereas Cabinet cannot make decisions in relation to the licensing of individual drivers, vehicles or operators under the legislation, it is permitted to adopt a Policy such as the Hackney Carriage and Private Hire Licensing Policy. The Policy will then be considered by the Regulation and Review Committee when decisions need to be taken in relation to individual drivers, operators and vehicles.

2.3 Consultation/Community Engagement:

2.3.1 Internal Consultation

Internal consultation will take place with the Cabinet Members, Members and service areas.

2.3.2 External Consultation

As outlined in section 1.5.4 of the report, an engagement process will commence to allow the Policy to be updated. An online survey will be available for respondees to make consultation responses as well as written responses.

2.4 Human Rights:

There are aspects of the administration of licences that may impact on the human rights of individuals residing in the Borough and licence holders. Article 8 of the European Convention of Human Rights entitles a person to the right to enjoy a private and family life.

Article 6 of the European Convention also entitles an individual to a fair hearing. Any individual appearing before a Regulation and Review Panel will be given an opportunity to express their views.

Article 1 of the First Protocol entitles a person to the peaceful enjoyment of his possessions. A possession may include the goodwill that such a Licence would generate. However, balanced against that is the ability of the Licensing Authority to enforce such laws under the Act as is necessary to control the use of such property, including a licence.

2.5 Equalities and Diversity:

The Policy has been drafted having regard to the Authority's Public Sector Equality Duty. An Equality Impact Assessment has been undertaken to inform the consultation process and it has been updated to assess the potential impact of the Policy. The consultation process will be undertaken to ensure that all persons, groups and organisations will have an opportunity to participate, including those with protected characteristics. Individual decisions taken under the Policy will also have to be taken having regard to the Public Sector Equality Duty

2.6 Risk Management:

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

2.7 Crime and Disorder:

The North Tyneside Hackney Carriage and Private Hire Licensing Policy seeks to ensure the safety of the travelling public and therefore contributes to preventing crime and disorder.

2.8 Environment and Sustainability:

Journeys by taxis and private hire vehicles represent a significant number of daily trips on the local highway network both within the Borough and beyond. The local authorities in the area are currently working on measures to tackle air quality caused by roadside pollution.

PART 3 – SIGN OFF

- Chief Executive x
- Director of Service x
- Mayor/Cabinet Member x
- Chief Finance Officer x
- Monitoring Officer x
- Assistant Chief Executive x

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HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Executive Summary

The aim of this Policy is to protect the public and ensure that drivers and operators are fit and proper persons for the role that they play in local transport provision.

The Department for Transport recommends that all licensing authorities make publicly available a cohesive policy document which should include, but not be limited to, policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards. This is the Authority's policy document.

This Policy has been drafted having regard to the "Statutory Taxi & Private Hire Vehicle Standards" issued by the Department for Transport in July 2020 under section 177(1) of the Policing and Crime Act 2017 ("the Statutory Guidance") and the recommendations contained therein.

In the Introduction of the Statutory Guidance at paragraph 1.1 it states: -

"There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated, and in some cases, perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from Greater Manchester and Merseyside suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the Crime Survey for England and Wales."

The Statutory Guidance makes it clear in paragraph 1.3 that the Department for Transport expects the recommendations contained in the Guidance *"to be implemented unless there is a compelling local reason not to."*

The objectives of this Policy are as follows:

- a) The safety and protection of the public
- b) The protection of children and vulnerable adults from harm
- c) The promotion of environmental sustainability; and
- d) To provide clarity for licensees with respect to the Authority's expectations of them and its decision-making process.

North Tyneside Council (the Authority) is aware that the public should have reasonable access to hackney carriages and private hire vehicles because of the important role they play in local transport provision.

Hackney carriage and private hire vehicles are a highly flexible form of public transport and play an increasingly important role in improving accessibility. Hackney carriage and private hire vehicles are used by all social groups and play an essential role in the provision of the Authority's home to school transport provision.

This Policy supports the Authority's Transport Strategy for 2017-2032 and the principles within that Policy. As well as seeking the protection of the public, the Authority aims to improve the safety, health and well-being outcomes for the people of the Borough and the sustainability of communities and the environment across the Borough.

As the environmental and health impacts associated with emissions from transport operations are now more clearly understood, the Authority has an increased responsibility to ensure that drivers and passengers are protected as far as possible from the adverse impact of vehicle emissions.

Version Control

Version 2

Approved by Cabinet on:

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- C Vehicle testing arrangements
- D Standard 'Exemption Notice' conditions for executive hire vehicles
- E Private hire driver licence - Conditions of licence
- F Code of good conduct for licensed drivers
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Introduction

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1. Hackney Carriage and Private Hire Licensing

The Authority is responsible for the licensing of hackney carriage and private hire vehicles, their drivers and in the case of private hire vehicles their operators, in the Borough of North Tyneside.

The Authority currently licences up to 204 hackney carriage vehicles, approximately XXXX private hire vehicles, XXXX licensed drivers and XX private hire operators.

A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to 'ply for hire'. This means that it may stand at ranks or be hailed in the street by members of the public. A hackney carriage can also be pre-booked. Private hire vehicles too must have no more than 8 passenger seats, but unlike hackney carriages, must be booked in advance through an operator and must not ply for hire in the street.

2. Powers and Duties

In 1977, the Authority adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976. By adopting Part II of the 1976 Act the Authority is given the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing in the Borough of North Tyneside. As such the Authority is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles in the Borough. This document sets out how the Authority will exercise its licensing functions when making decisions about new licence applications, renewal of licence applications and licences currently in force.

The Authority is also obliged to have regard to the Statutory Taxi & Private Hire Vehicle Standards issued under section 177(1) of the Policing and Crime Act 2017 by the Department for Transport when exercising its licensing functions.

3. Objectives

In setting out this Policy, the Authority seeks to carry out its licensing functions with a view to promoting the following objectives:

- a) The safety and protection of the public
- b) The protection of children and vulnerable adults from harm
- c) The promotion of environmental sustainability
- d) To provide clarity for licensees with respect to the Authority's expectations and its decision-making process.

In the promotion of the above objectives the Authority will consider the following matters:

- a) The safety and protection of the public:
 - Ensuring that vehicles are safe, clean, reliable and accessible to meet the varying needs of the public
 - Providing confidence in the system for assessing whether a person is 'fit and proper' to drive a hackney carriage or private hire vehicle.
- b) The protection of children and vulnerable adults from harm.

This Policy:

- Puts protecting the safety and welfare of the public at its core
 - Specifically takes account of the Authority's safeguarding responsibilities, particularly in relation to children, young people and vulnerable adults and reflects best practice
 - Makes it clear that the welfare of children and their protection from harm is everyone's responsibility, in particular that prospective and licensed drivers and operators have a duty to promote good safeguarding practices, including awareness of Child Sexual Abuse and Exploitation and trafficking.
- c) The promotion of environmental sustainability:
 - To encourage the uptake of zero and ultra-low emission vehicles
 - To only permit licenses for vehicles that comply with the particular age requirements as set out in Chapter 2 paragraph 19 of this Policy.
 - d) To provide clarity for licensees with respect to the Authority's expectations and the decision-making process:
 - Clarity of the Authority's expectations with regards to convictions, cautions, fixed penalties and community resolutions.

This Policy shall apply in respect of new applications, renewals and other matters connected to the following licences:

- Private hire vehicle proprietor
- Private hire driver
- Private hire operator
- Hackney carriage driver
- Hackney carriage proprietor.

This Policy shall also apply in respect of disciplinary and enforcement measures and includes a Code of Conduct to be followed by all drivers licensed by the Authority.

4. **Methods Used in Meeting the Objectives**

The methods to be employed will be:

- Setting the standards for the licensing of drivers, vehicles and operators
- Periodical licensing and routine inspection of vehicles, with appropriate follow up action if necessary
- Routine inspection of insurance policies, with appropriate follow up action if necessary
- Checks of driver's medical condition, criminal record (if any) and knowledge of the law
- Investigation of complaints with appropriate follow up action
- Liaison with the Police, the Home Office, Safeguarding and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees
- Taking enforcement and/or disciplinary action including prosecution, verbal and written warnings, advice, written cautions, notices, suspension or revocation of licences for breaches of legislation or licence conditions;
- Conditions added to licences
- Enforcement of the Byelaws
- Liaison with the hackney carriage and private hire trade by way of open meetings
- The issue of guidance notes.

When considering applications and taking enforcement action the Authority as a Licensing Authority is also subject to the Regulators' Code published by the Department for Business, Energy and Industrial Strategy and will have regard to the statutory principles of good regulation as required by the Legislative and Regulatory Reform Act 2006, the Authority's Enforcement Policy and the 'Statutory Taxi & Private Hire Vehicle Standards' Guidance referred to above.

Please see link below to the Authority's Enforcement Policy.

<http://my.northtyneside.gov.uk/category/691/statement-enforcement-policy>

The Authority is aware that under the Regulators' Code the Authority should i:

- Carry out its activities in a way that supports those they regulate to comply and grow
- Provide simple and straightforward ways to engage with those it regulates and hear their views
- Base its regulatory activities on risk
- Share information about compliance and risk
- Ensure clear information, guidance and advice is available to help those it regulates to meet their responsibilities to comply with the law, statutory guidance and the Policy
- Ensure that its approach to its regulatory activities is transparent.

5. **Best Practice Guidance**

In formulating this Policy consideration has been given to the available best practice guidance issued by the Department for Transport and the Department for Business, Energy & Industrial Strategy. In addition, the Authority has had regard to the 'Statutory Taxi & Private Hire Vehicle Standards' referred to above which replaced relevant sections of the Best Practice Guidance published by the Department in 2010. Where there is a conflict between the Statutory Guidance and the Best Practice Guidance the Statutory Guidance takes precedence.

6. **Status**

In exercising its discretion in carrying out its regulatory functions, the Authority will have regard to this Policy and the objectives set out above as well as the 'Statutory Taxi & Private Hire Vehicle Standards' Guidance as it is obliged to do under section 177(4) of the Policing and Crime Act 2017.

Notwithstanding the existence of this Policy and consideration of the Statutory Guidance issued under the Policing and Crime Act 2017, each application or enforcement measure will be considered on its own merits. Where it is considered necessary for the Authority to depart from the Policy and the Statutory Guidance, clear reasons will be given for doing so.

7. **Implementation and Review**

This Policy will take effect on xxx 2021 save for the Age/Emissions standards paragraphs of the Policy which will come into force on 1 April 2022 and 1 April 2024 as detailed in Chapter 2, paragraph 20.

The Authority will keep this Policy under review and will consult where appropriate on proposed revisions. A full review of the Policy will be conducted every five years from the date of effect, but its performance will be reviewed annually. It may be necessary to revise the Policy within any five year period. Any changes made to the Policy may have immediate effect or be expressed as coming into effect on a given date.

Amended copies of the Policy will be available from the Licensing Section and via the internet at <https://my.northtyneside.gov.uk/category/879/taxis-and-private-hire>

Upon implementation of this Policy, the Authority requires licensees to comply with its terms immediately. Where it is not possible to comply with part of the Policy due to outstanding action required by the Authority, information will be provided as to an implementation date for that part of the Policy.

From the effective date, this Policy overrides and supersedes all existing policies in relation to private hire and hackney carriage licensing.

8. Consultation

In preparing this Policy the Authority has consulted with and taken into account the views of amongst others:

- Current licensees
- Northumbria Police
- Local businesses and their representatives
- Residents and their representative bodies
- Local transport providers
- Disability Groups
- Planning Authority
- Service users
- Environmental groups
- Neighbouring Authorities (including the North East Combined Authority, North of Tyne Combined Authority and the Tees Valley Combined Authority)
- Representatives from the charitable and voluntary sector
- Members of the Authority
- Chamber of Commerce
- Campaign for Better Transport
- Local traders
- North Tyneside Safeguarding Children Partnership
- Adult Social Care within the Authority
- Pubwatch.

The views of all of these persons and bodies who provided a consultation response have been taken into account in determining this Policy.

9. Area and Impact

North Tyneside is one of the five metropolitan districts that comprise the county of Tyne and Wear. North Tyneside is bounded by Newcastle upon Tyne to the west, the North Sea to the east, the River Tyne to the south and Northumberland to the north. The A19 runs from north to south and the A1058 Coast Road runs from east to west within the Borough. Recent growth has come in the A19 corridor with new industrial estates and retail parks. There is also an International Ferry Terminal at North Shields.

The late-night economy of the Borough is principally centred around Tynemouth and Whitley Bay where a number of hospitality and entertainment premises are situated. Activity is also centred on restaurants, public houses and takeaway establishments in areas such as North Shields and Wallsend.

The Authority recognises and welcomes the contribution that the hackney carriage and private hire trade makes to the transport and tourism industries.

Hackney carriage and private hire vehicle journeys represent a significant number of daily trips on the local highway network both within North Tyneside and the wider area. The majority of these journeys are made along key local and regional arterial routes on which air quality and in particular nitrogen dioxide (NO₂) issues have manifested themselves on some of these routes. Local Authorities in the area are working on measures to address the issue of poor air quality in the areas identified as having an issue with poor air quality which may include some form of road user charging that would be applicable to hackney carriage and private hire vehicles.

Improving local air quality forms part of the Authority's Transport Strategy for 2017-2032 and hackney carriage and private hire vehicles have an important role in helping the Authority deliver this outcome, particularly given the comparatively higher mileage undertaken by hackney carriages and private hire vehicles on local roads compared to other passenger vehicles.

10. **Partnership Working**

The Authority will work in partnership with the following agencies and individuals to promote the licensing objectives and to safeguard the general public particularly vulnerable members of society when using the hackney carriage and private hire trade:

- Local Hackney Carriage and Private Hire Trade
- Safeguarding Services
- Northumbria Police
- Local Transport authorities and committees
- Local residents
- Disability Groups
- Service users and their representatives
- Driver and Vehicle Standards Agency (DVSA)
- HM Revenue and Customs
- Department for Work and Pensions
- Other Council Departments
- UK Border Agency/Home Office (Immigration Enforcement)
- Other Government Departments and Agencies.
- Neighbouring Licensing Authorities

The Authority holds regular meetings with the hackney carriage and private hire trade to consider current and future licensing issues.

11. **Related Legislation and Strategies**

This Policy will be integrated as far as possible with local planning, transport, tourism, equality cultural and environmental strategies, and other plans introduced for the management of the Borough and night-time economy.

The Authority will work in partnership with other agencies.

As stated above, the Authority must also have regard to the Statutory Guidance issued by the Department for Transport in July 2020 (and any subsequent Guidance that may be issued) under section 177(1) of the Policing and Crime Act 2017.

12. **Equality**

As an employer and service provider the Authority is committed to ensuring equality in employment and service delivery. To achieve the above standard the Authority is aware of its duties and obligations under the following legislation:

- Human Rights Act 1998
- Equality Act 2010.

13. **Duties and obligations under Equality Act 2010**

The Authority will consult on and monitor the impact of this Policy to ensure that those making applications are treated in accordance with their needs. The Authority also recognises the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010 (the 2010 Act) which it must have regard to when exercising its licensing functions.

In applying this Policy, the Authority will at all times endeavour to comply with its obligations under the 2010 Act and the Human Rights Act 1998.

Providers of hackney carriage and private hire transport are deemed to be providers of services to the public for the purposes of Part 3 of the 2010 Act. A statutory Code of Practice has been published and provides guidance on specific issues associated with the 2010 Act. Licensees and applicants should read the Code of Practice and ensure that they operate having due regard to the Code and in compliance with the 2010 Act.

It is a condition of a vehicle licence that wheelchair accessible vehicles must have appropriate equipment so as to be able to transport passengers in wheelchairs at all times. In instances where this is not the case the licence for the vehicle may be suspended until such time as the Authority considers the vehicle is fit for purpose.

In accordance with the 2010 Act the Authority holds a list of wheelchair accessible vehicles (designated vehicles). The Act requires the drivers of such designated vehicles to carry passengers in wheelchairs and to provide assistance to such passengers and prohibits drivers from charging such passengers an additional charge.

The Department for Transport has published statutory guidance called 'Access for Wheelchair Users to Taxis and Private Hire Vehicles' and drivers of wheelchair accessible vehicles are encouraged to read and understand that guidance. Further information can be found at [Wheelchair access in taxis and private hire vehicles - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/wheelchair-access-in-taxis-and-private-hire-vehicles)

It is a criminal offence for drivers of wheelchair accessible vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra unless the driver has been issued with an exemption certificate by the Authority exempting them from performing the duties set out in section 165 of the 2010 Act.

All licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles and passengers with disabilities and to provide assistance to such passengers without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided at the driver's expense, from the driver's own GP stating the details of their medical condition to the satisfaction of the Licensing Authority. A register will be kept by the Authority of exempted drivers.

Any drivers who consider that they should be exempt from the duties imposed on them by the 2010 Act in relation to carrying passengers in wheelchairs or passengers with assistance dogs should contact the Authority's Licensing Department at www.northtyneside.gov.uk

Further information is available from the Equality and Human Rights Commission at www.equalityhumanrights.com.

14. **Right to live and work in the UK**

Under the Immigration Act 2016 all individual applicants for private hire operator and private hire and hackney carriage driver licences are required to prove that they have a right to live and work in the UK before being considered for a licence. A list of suitable documents that are required to be produced to prove a right to live and work in the UK is available from the Authority's Licensing Section.

Please see the following link (information is contained on pages 25/26 of the attachment) <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

A licence will not be granted until the applicant is able to prove that they have a right to live and work in the UK. If an applicant has only limited leave to remain in the UK then any licence will only be issued for this period of time.

2. Vehicles – Hackney Carriage and Private Hire

Contents

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1. Specifications

The Department for Transport Best Practice Guidance issued in 2010 recommends that licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the 'type approval' rules within any specifications they determine.

All vehicles, therefore, shall have an appropriate 'type approval' which is either:

- European Whole Vehicle Type approval
- British National Type approval or
- British Individual Vehicle Approval (IVA).

As a guide, most large volume production vehicles produced in the UK and EU member states after 1987 will satisfy British and/or European Whole Type Approval. Specialist vehicles or any vehicle that has been structurally modified, converted or imported from a non-EU member state since its original manufacture will require separate IVA and/or Department for Transport approval and such documentation must be submitted with an application for a hackney carriage or private hire vehicle licence.

The seating capacity of a vehicle will be determined by the Authority. Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

Where the seating in the vehicle does not conform with the specifications in this Policy or for other reasons associated with the safety and comfort of passengers, the Authority may reduce the permitted number of passengers that may be carried in the vehicle from that specified by the vehicle manufacturer.

Appendix A sets out the minimum standards which are expected in respect of licensed vehicles.

2. **Private Hire Vehicles**

A private hire vehicle is a motor vehicle constructed or adapted to seat no more than 8 passengers which is provided for hire with the services of a driver for the purpose of carrying passengers. All hirings for a private hire vehicle must be pre-booked through a licensed private hire operator. Any vehicle used as a private hire vehicle must be licensed under the provisions of the Local Government (Miscellaneous Provisions) Act 1976. In determining what vehicles fall within this definition the Authority will give consideration to the 'Best Practice Guidance on Taxi and Private Hire Licensing' issued by the Department of Transport in 2010.

The Authority must be satisfied that the following criteria are met before granting a licence:

That the vehicle is:

- Suitable in type, size and design for use as a private hire vehicle
- Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage
- In a suitable mechanical condition
- Safe
- Comfortable.

Conditions may be attached to the grant of a licence as are considered reasonably necessary. Vehicles which are licensed with another Authority will not be licensed by this Authority.

In addition to the above legislative requirements the Authority has imposed conditions relating to the size and other specifications of the vehicle. These are attached at **Appendix A**.

All private hire vehicles must:

- Not be black in colour; or be any colour, which, in the opinion of the Authority, closely resembles black
- Not be fitted with a roof sign of any description
- If the vehicle is fitted with a meter, it must be properly tested and sealed and be of a type approved by the Authority or an agent approved by the Authority
- Display a yellow licence plate, which must be securely attached to the exterior rear of the vehicle as prescribed by a condition of the Authority
- Display a yellow decal provided by the Authority and attached centrally to each front door of the vehicle as prescribed by a condition of the Authority
- Display a disc in the top nearside corner of the front windscreen.

General conditions are attached to a private hire vehicle licence relating to the identification of the vehicle and safety issues. These are attached at **Appendix B**.

3. Hackney Carriage Vehicles

A hackney carriage is a wheeled carriage used in standing or plying for hire that is required to have a numbered plate fixed upon it. The legal definition of a hackney carriage is contained in the Town Police Clauses Act 1847.

A hackney carriage can ply for hire within the Borough of North Tyneside and also wait at a hackney carriage stand within the Borough. In addition, a hackney carriage may also undertake work on a pre-booked basis.

Conditions can be imposed upon the grant of a hackney carriage proprietor's licence and the Authority has byelaws to control the conduct of both proprietors and drivers. These Byelaws are attached at **Appendix I** to this Policy.

The Authority has imposed requirements relating to the size and other specifications of the vehicles. These are attached at **Appendix A**.

General conditions are attached to a hackney carriage vehicle proprietor's licence relating to the identification of the vehicle and safety issues. These are attached at **Appendix B**.

All hackney carriages must:

- Be black in colour
- Be fitted with an approved roof sign bearing the word "TAXI" as prescribed by the Authority
- Be fitted with a meter of an approved type with the fares charged as determined by the Authority
- Meters, after being checked for accuracy, must be sealed by Officers of the Authority or an agent approved by the Authority
- Display a white licence plate, which must be securely attached to the exterior rear of the vehicle in the vicinity of the bumper
- Display a white decal provided by the Authority and attached centrally to each front door of the vehicle as prescribed by a condition of the Authority

- Display the current table of fares as prescribed by condition of the Authority
- Display a disc in the top nearside corner of the front windscreen.

4. Limitation of Numbers

No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.

The present legal provisions on quantity restrictions for hackney carriages are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis “if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”.

Any new application for a hackney carriage proprietor’s licence that would be in excess of that number will be refused if the Authority is satisfied that there is no significant unmet demand for taxi services within the area. An applicant whose licence is refused has a right of appeal to the Crown Court.

The Authority is satisfied that there is no significant unmet demand for hackney carriage services within this area. Therefore, it has placed a limit on the number of hackney carriage vehicle licences issued. This limit has been placed at 204 following consideration of the results of an independent study.

The current limit includes grandfather rights granted to proprietors of saloon vehicles. These rights permit the continued use of a saloon vehicle by proprietors who were granted their hackney carriage proprietor’s licence prior to July 1992. These rights are to remain and encourage a mixed fleet of hackney carriage vehicles consisting of saloons and wheelchair accessible vehicles. It is recognised that users with some medical conditions will find saloons easier to access than wheelchair accessible vehicles.

This limitation of numbers will be periodically reviewed, and this Policy will be amended to take account of the results as required.

5. Location of Applicant’s Home/Business

When an applicant wishes to licence a vehicle as a hackney carriage the Authority will require information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in the Authority’s area and also if the applicant intends to use the vehicle entirely or predominantly remotely from the Authority’s area on a pre-booked basis.

Whilst each application will be considered on its own merits, the Authority will have regard to the geographic location of an applicant’s home and business address.

If the Authority believes that the hackney carriage is to be used entirely or predominantly remotely from the Authority’s area on a pre-booked basis, then the application for a licence will normally be refused.

If the Authority believes that an existing hackney carriage is being used predominantly outside the Authority's area on a pre-booked basis with an Operator who is not licensed by this Authority, then having regard to the judgment in *Newcastle City Council v Berwick-upon-Tweed Borough Council [2008] EWHC 2369 (Admin)* the matter will be referred to the Regulation and Review Committee.

6. **Insurance**

All vehicles must have a current, valid policy of insurance at all times, appropriate to the use of the vehicle. The policy of insurance must be in place before a licence can be granted.

It is an offence to use a vehicle without the appropriate insurance in place.

Requests to produce evidence of the appropriate insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.

If a vehicle is off the road and uninsured the proprietor must advise the Licensing Section of the Authority in writing immediately or in any event within 72 hours.

7. **Advertisements, signs, notices etc.**

No signs, notices, advertisements, digital or audio display etc. or other markings shall be displayed on, in or from the vehicle subject to the following exceptions:

- Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence
- Advertising on the rear doors, rear wings and boot area of the vehicle (of two-dimensional insignia type) approved by the Authority
- Advertising along the top 8 cm strip of the windscreen of the vehicle provided that it is not illuminated, and it bears only the name and/or telephone number in block letters of the firm operating the vehicle
- Some in car digital advertising.

Signs, notices or advertisements must not be of a content that the Authority deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, www.asa.org.uk.

The Director of Environment, Housing & Leisure can approve or refuse to allow advertisements in the areas permitted in this Policy. All advertisements must be approved by the Director of Environment, Housing and Leisure prior to being displayed on or in a vehicle. Any unauthorised advertisements will be required to be removed and appropriate action taken.

The Director of Environment, Housing and Leisure can approve or refuse requests for advertising on the lower area of the front doors of private hire and hackney carriage vehicles. Such advertising to be for the purpose of promoting a private hire operator, a hackney carriage proprietor (or group of proprietors) licensed by the Authority.

Any queries regarding advertisements must be referred to the Licensing Section of the Authority.

8. Accident notification

The proprietor shall notify the Licensing Section of the Authority in writing as soon as reasonably possible, or in any case within 72 hours, of any accident involving a licensed vehicle that results in damage materially affecting the safety, performance, or appearance of the vehicle or the comfort or convenience of potential customers. In certain cases, the vehicle licence will be suspended.

The proprietor must comply with any reasonable request to produce the vehicle for inspection at the Authority's offices or other specified location so that its roadworthiness can be assessed. Any failure to do so is an offence and the appropriate action will be taken. Following the repair, the level of damage will be assessed, and the Authority may require an engineer's report and / or the vehicle to be examined at the Authority's Test Station.

9. Vehicle testing

All vehicles must undergo and satisfy an inspection by the Authority's vehicle examiners or at a place specified by the Director of Environment, Housing and Leisure prior to being licensed.

It is the proprietor's responsibility to ensure that a licensed vehicle is roadworthy and fit for hire and reward purposes at all times.

Vehicles are to be tested in accordance with the Vehicle Testing Arrangements (attached at **Appendix C**). The Testing Station may also be directed to look at other issues identified by a Licensing Officer. In the event of the Testing Station being unavailable the Authority will put alternative arrangements in place.

Vehicles that are 4 years old and over at the time of the licence being granted will require an interim test. Vehicle proprietors will be required to produce their vehicle for testing when requested. The fee for this interim test will form part of the annual licence fee. Vehicles that are 3 years old on the date the licence is granted but turn 4 years old during the one-year term of the licence are excluded from the routine requirement to undertake an interim test. Such vehicles may still be requested to be presented for inspection and test in accordance with the statutory provisions.

Vehicles failing to be presented for a test or presented late for the test will be required to be re-tested and a re-test fee paid. Where appropriate the licence will be suspended. A further test appointment will only be made when the retest fee has been paid.

The Lifting Operations and Lifting Equipment Regulations 1998 (often abbreviated to LOLER) place duties on people and companies who own, operate or have control over lifting equipment. This includes all businesses and organisations whose employees use lifting equipment, whether owned by them or not.

The regulations require that the inspection interval is 6 months, for lifting equipment and any associated accessories used to lift people. Any licensed vehicles containing this equipment should provide evidence of a LOLER inspection report every 6 months.

10. **Application Procedure**

Applications are to be made in writing and may be made in person, by post, online or e-mail. Note: The Authority will not be responsible for any documents that may be lost in the post.

Applications will not be considered valid unless they contain all the relevant documentation and the appropriate licence fee has been paid.

For the purposes of licensing, a hackney carriage or private hire vehicle licence will be issued in the name of the registered keeper of the vehicle. The registered keeper can be an individual or a company. Where the registered keeper is a company, details of the person who will be responsible for the vehicle will be included on the licence.

The booking of vehicle tests may be done by telephone, in person, online or by e-mail at taxi.licensing@northtyneside.gov.uk. Postal or e-mail applications should be made at least 10 working days prior to the date of the vehicle test to allow for the application to be processed.

If the application is refused the fee will be refundable minus the proportion of the charge for the test fee.

The Director of Environment, Housing and Leisure has the discretion to attach, amend or remove a condition of licence.

Although applications may be made by post or e-mail, licence plates must be collected in person.

11. **Criminal Record Checks**

The holder of a hackney carriage proprietor's licence or private hire vehicle licence, as well as ensuring that the vehicles are well maintained to an acceptable standard, must also ensure that vehicles are not used for illegal or illicit purposes. The Authority's objective when licensing hackney carriage and private hire vehicles is to protect the public.

Hackney carriage proprietor licences and private hire vehicle licences will only be granted, or renewed, to persons that the Authority considers to be 'fit and proper' persons to hold such licences. This means that they must pose no threat to the public and have no links to serious criminal activity.

To ascertain if an applicant for a hackney carriage proprietor's licence or private hire vehicle licence is a fit and proper person to hold such a licence the Authority requires them on applying for such a licence, or an application for a renewal thereof, to produce to the Authority a Basic Disclosure of any criminal convictions obtained from the Disclosure and Barring Service (DBS). In addition to having regard to the Basic Disclosure the Authority will also have regard to the information contained in the application form and, any information obtained during any interview that may take place between the applicant/licence holder and a licensing officer.

The Authority will check the Basic Disclosure of any criminal convictions annually.

Before an application for a private hire vehicle licence or hackney carriage proprietor's licence, or a renewal application, will be considered by the Authority, the applicant (whether this be an individual or the Director of a limited company) must provide a current (less than 1 month old) Basic Disclosure of criminal convictions from the DBS. If the applicant is currently licensed as a driver with this Authority, they will be exempt from this requirement as they will already have had a higher level of criminal record check.

Where a vehicle licence is in force in the name of a limited company and a new director(s) is proposed to be appointed to that limited company, then each proposed director will be required to provide a Basic Disclosure of convictions from the DBS. If the applicant is currently licensed as a driver with this Authority, they will be exempt from this requirement.

In exceptional circumstances, the Authority may take relevant spent convictions into account having regard to the factors set out in the judgment of *Adamson v Waveney District Council* [1997] 2 All ER 898 when determining an individual's suitability to hold a private hire vehicle licence or hackney carriage proprietor's licence. In the case of a company, any relevant spent convictions of an officer of the company may be taken into account in exceptional circumstances when determining the suitability of the company to hold a licence.

When determining if the applicant/licence holder is, or remains, a fit and proper person to hold a hackney carriage proprietor's licence or private hire vehicle licence the Authority will apply the following test having regard to the information in its possession: -

"Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at a time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"

If the answer to this question is an unqualified yes, then the test is satisfied. If officers or Members have doubts then further consideration will be given as to whether the individual is a fit and proper person to hold vehicle licence.

As the public must have trust and confidence in the safety and integrity of both the hackney carriage and private hire systems, the same standards will be applied to hackney carriage proprietors and private hire licence holders as to drivers outlined in this Policy.

12. **Decision Making**

Refusal to licence an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle licence; this decision will be independent of a driver licence refusal and based on the appropriate information that is held. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

13. **New Applications and Replacement Vehicles**

The following documents are to be submitted for new/replacement vehicle applications:

- Fully completed application form
- Basic Disclosure of criminal convictions certificate (if not currently licensed as a driver) of the applicant(s) or in the case of a limited company, for each director of the company
- Pre-Test Inspection form (PTI) - approved
- Vehicle test certificate - pass
- Vehicle registration document in the applicant's name (or proof of purchase identifying applicant as purchaser if newly purchased vehicle). (An order form is insufficient for this purpose)
- Appropriate valid certificate of motor insurance for date of intended business use.
- LOLER certificate (where applicable)
- Conversion certificate (where applicable).
Note: the Authority provides a service to carry out LOLER testing and conversion/installation inspections. Additional fees apply. Further information is available from the Licensing Office or on the Authority's website.
- Taximeter certificate (where applicable)

Fees:

- Licence fee. Please note the fee differs depending on the age of the vehicle and the type of licence applied for.

If the application is withdrawn or refused the fee will be refunded minus any vehicle test fees and an administrative charge. Should the application be appealed, the administrative charge will be higher.

14. **Renewal Applications**

The following documents are to be submitted for renewal vehicle applications prior to the expiry of the licence:

- Fully completed vehicle renewal form
- Basic Disclosure of criminal convictions certificate (if not currently licensed as a driver) of the applicant(s) or in the case of a limited company, for each director of the company
- Vehicle test certificate – pass required
- Appropriate valid certificate of motor insurance for date of intended business use.
- LOLER certificate (where applicable).
Note: The Authority provides a service to carry out LOLER testing. An additional fee applies. Further information is available from the Authority's Licensing Office or on the Authority's website
- Taximeter certificate (where applicable).

Fees:

- Licence fee. Please note the fee differs depending on the age of the vehicle and the type of licence applied for.

There is no legal requirement for the Authority to send out reminders for renewals for licences, but to aid vehicle proprietors the Authority's Licensing Section will endeavour to do so. However, the responsibility rests with the proprietor to ensure documentation is provided within the appropriate timescales. Where an application to renew a vehicle licence is not received prior to the expiry of the licence, the licence will not be renewed. In such cases, a new application will be required, and a higher licence fee will apply.

Incomplete applications

An application to renew a licence that has been submitted with the appropriate licence fee prior to the expiry of that licence, but is incomplete, will not be processed.

In such cases the Authority will issue a written request to the licensee for the additional information to be provided within 14 days of the expiry of the licence. During this time the licensee can continue to operate the vehicle for hire and reward purposes.

If the licensee fails to provide the information within this time period the application will be refused, to which the licensee will have a right of appeal. During this time

the licensee can also continue to operate the vehicle. If no appeal is received within 21 days, then the vehicle must cease operating.

If the application is withdrawn or refused the fee will be refunded minus any vehicle test fees and an administrative charge. Should the application be appealed, the administrative charge will be higher.

15. **Grandfather Rights**

The Authority will take account of the previous decision to licence a vehicle where a departure from the policy has been made providing the application is received within 2 months of the expiry date. Applications made after this period will be considered as a new application and the Policy will be freshly applied.

The Authority will take account of the previous DBS check held of any proprietor who has not renewed their operator's licence but re-applies within 6 months of the expiry date.

16. **Change of address**

The proprietor must advise the Authority in writing within 7 days of a change of business or home address during the period of the licence. There is no fee for this process.

17. **Transfer of interest**

The proprietor shall notify the Authority in writing, giving the name and address of the new proprietor, within 14 days if the interest in the vehicle is transferred to another person not currently named on the licence.

Each proposed vehicle proprietor will be required to provide a Basic Disclosure of convictions from the Disclosure and Barring Service. If the applicant is currently licensed as a driver with this Authority, they will be exempt from this requirement.

Where a proprietor wishes to be removed from the licence the Authority should be notified in writing within 14 days. There is no fee for this process.

18. **Limousines**

A stretch limousine is a luxury saloon car with a lengthened wheelbase and an extended chassis.

The Authority recognises the role limousines have to play in the private hire trade to meet a public demand and as such it is necessary for them to come under the licensing system and the controls that this will allow. The Authority, however, has not developed a separate licensing regime for such vehicles. Rather it has widened the criteria of the current vehicle specifications that licensed vehicles must meet. Please see **Appendix A**.

Most limousines are imported for commercial purposes and are required to take an individual vehicle type approval (IVA) test. This ensures that the vehicles meet

modern safety standards and environmental standards before being used on public roads.

The Authority has no objection to licensing limousines that are safe and fit for the road. The Authority has given consideration to licensing left hand drive vehicles and vehicles with side facing seats, however, it believes that such vehicles are not suitable due to the safety issues that exist with such vehicles and as such will not licence them.

There shall be no sale or provision of alcohol from any vehicle without a current premises licence under the Licensing Act 2003 being in force. Note: Under section 156 of the Licensing Act 2003 it is an offence to sell alcohol from a moving vehicle.

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

A vehicle does not need to be licensed while it is being used in connection with a wedding.

19. **Executive Hire Private Hire Vehicles**

Private hire vehicles (not hackney carriages) used solely and exclusively for executive hire can be exempted under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 from the requirement to display a licence plate and the driver from wearing a driver's badge.

Any proprietor of a licensed private hire vehicle wishing to apply for this exemption should be engaged solely in the provision of an executive service.

The applicant must satisfy the Director of Environment, Housing and Leisure that the specification of the vehicle and the overall level of service provision constitutes an executive hire service. This is initially done by way of submission of a business plan, inspection of the vehicle and the proprietor of the vehicle in question being interviewed by a Licensing Officer of the Authority. Guidance notes are available from the Licensing Section.

Applications for an exemption can be made in writing, in person or by post or e-mail.

If granted, an Exemption Notice will be issued to the proprietor. The Exemption Notice shall not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard conditions attached at **Appendix D** and any additional conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice. The conditions are attached at **Appendix D** to this Policy.

The private hire operator, proprietor and driver operating under the provisions of an executive Exemption Notice, remain subject to the requirements of the Local Government (Miscellaneous Provisions) Act 1976 with regard to the respective licences and the conditions attached in each case.

Any vehicle operating under this exemption may also request in writing to be exempt from the condition limiting the tint on the rear passenger windows (two rear passenger windows, back window and any rear side windows if present).

Any vehicle granted an exemption, and which has tinted windows, must not be engaged at all in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years). The driver must not act as the accompanying adult. Further, the Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle with tinted windows will be supplied.

20. **Tinted Windows**

In the case of vehicles where windows have been factory fitted as standard with a tint there will be no minimum light transmission requirement for all windows to the rear of the B pillar.

The windows (excluding the windscreen which must have a minimum light transmission of 75% and 70% minimum light transmission for front side windows) of any vehicle shall not be adapted so that less than the percentages detailed below of light is transmitted through it:

- 34% for all windows to the rear of the B pillar.

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the light transmittance of the windows is below 34%. This discretion however does not apply to the front windscreen or the front side windows.

In addition to above, if the following criteria can be met there will also be no minimum light transmission:

- The vehicle is an executive hire vehicle operating under an Exemption Notice, and
- The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of minors or based around the carriage of unaccompanied children/young persons (under age 18 years). The driver must not act as the accompanying adult, and
- Approval has been given by the Director of Environment, Housing and Leisure.

The Operator must, unless such a vehicle has been specifically requested, inform a hirer that a vehicle with tinted windows as detailed above will be used to fulfill the booking.

21. **Closed Circuit Television (CCTV) in vehicles**

The purpose of CCTV is to provide a safe environment for the benefit of the driver and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting the Police and Licensing Officers in investigating incidents of crime and/or complaints
- Assisting insurance companies in investigating motor vehicle accidents.

Where a CCTV system is in place it is a requirement that the proprietor must register their use of a CCTV system with the Office of the Information Commissioner in accordance with the requirements of the Data Protection Act 2018. Further information is available at <https://ico.org.uk/>

Any vehicle fitted with CCTV must display a sign approved by the Licensing Authority advising passengers that a CCTV system is in operation in the vehicle.

Where CCTV is in place in a vehicle it must be in full working order when passengers are being carried. The CCTV system must be maintained to manufacturers' standards.

The CCTV footage must be available for viewing by a Police Officer or an Authorised Officer of the Authority when a request to view the footage is made in compliance with the Data Protection Act 2018. Any failure to comply with such a request will be reported to the Licensing Section of the Authority for consideration of the appropriate action to be taken.

Any reports of misuse of CCTV will be referred to the relevant authority, for example, the Surveillance Camera Commissioner and the Information Commissioner's Office as well as the Authority.

22. **Environmental Considerations**

This Policy is listed in the Authority's Transport Strategy for 2017-2032 as a Policy that supports the delivery of the Transport Strategy in the Borough. The North Tyneside Transport Strategy was approved by Cabinet in May 2017 and commits to managing the Borough's transport network effectively having regard to all forms of transport including that provided by hackney carriage and private hire vehicles. This Policy has therefore been developed having regard to the Authority's Transport Strategy. The Transport Strategy for 2017-32 can be found on the North Tyneside Council website.

As detailed in Chapter 1, one of the objectives of this Policy is the promotion of environmental sustainability. To meet this objective the Policy seeks to promote the uptake of zero and ultra- low emission vehicles and to permit licenses to be granted

only for those vehicles that comply with particular age requirements within this Policy.

Emissions from hackney carriage and private hire vehicles can be immediately improved through encouraging the better maintenance of vehicles and by drivers switching off their vehicle's engine when stationary and so preventing the idling of engines, including in particular hackney carriages parked at ranks or licensed vehicles waiting for a fare. Non-idling technology is becoming more prevalent in newer vehicles and over time all licensed vehicles should be able to make use of this technology.

23. **Emission/Age standards**

As part of the need to promote environmental sustainability and reducing pollution caused by road vehicles, this Policy introduces common requirements for emissions from hackney carriages and private hire vehicles. The age standards set out below aim to assist in meeting the need to improve air quality in the Borough and the wider region.

The following age standards will be implemented over a four year period:

- (i) From 1 April 2022 no new vehicle licence will be granted for the vehicle unless it is less than 4 years old
- (ii) From 1 April 2024 a vehicle licence will not be renewed unless the vehicle is less than 8 years old
- (iii) From 1 April 2025 a wheelchair accessible vehicle licence will not be renewed unless the vehicle is less than 8 years old.

All 'Full electric' and 'zero emission at source' vehicles will be exempt from the age standards set out above.

If any application is refused due to a vehicle failing to meet the age standard the licensee/applicant can appeal to Regulation and Review Committee against the decision to refuse to grant a licence or to the Magistrates' Court or Crown Court as appropriate.

24. **Insurance write offs**

Car insurance assessors use various categories of car insurance write off to rank the seriousness of accident damage. Two categories (A & B) represent very serious damage, but the remaining two categories (S & N) are for 'economic write offs' where the damage is considered too expensive to fix but does not necessarily amount to damage that is considered to be dangerous. Vehicles that have been declared to be an insurance write off in category A & B will not be licensed.

Vehicles that have been declared either category S or N write off may be licensed providing the applicant provides an appropriate Engineer's report, approved by the Authority, verifying the standard of repairs and that the vehicle is considered to be safe in all regards.

Licence Plate, Windscreen Disc and Door Decals

25.

Where a licence is issued, a licence plate, windscreen disc and door decals identifying the vehicle as a hackney carriage or private hire vehicle will be issued.

The licence plate displays the licence number, registration number and make, model and colour of the vehicle along with the maximum number of passengers that can be conveyed.

The plate must be securely fixed externally on or about the off-side area of the rear bodywork or rear bumper of the vehicle. The plate must be attached at all times. The plate always remains the property of the Authority and must be returned upon expiry, surrender, suspension or revocation of the licence.

The windscreen disc displays the licence number, expiry date of the licence and the maximum number of passengers that can be conveyed in the vehicle and must be displayed at all times in the upper corner of the nearside part of the windscreen.

The decals display the licence number of the vehicle and must be attached centrally to each front door of the vehicle. In the case of a private hire vehicle they must be securely affixed and in the case of Hackney Carriage Vehicle permanently affixed to the vehicle.

Unless a private hire vehicle has been issued with an Exemption Notice to operate as an Executive style vehicle (please refer to the relevant section above) the decals must remain affixed at all times the vehicle is operating and cannot be removed on an ad hoc basis.

Conditions

26.

It is the responsibility of hackney carriage proprietor licence holders and private hire vehicle licence holders to ensure that they have read and fully understood the conditions that form part of their licence and fully understand the requirements imposed on them by such conditions. Failure to adhere to the conditions could result in disciplinary action being taken against the licence holder. Any proprietor of a licensed vehicle who claims not to be aware of the existence of a licence condition will be considered as not having taken sufficient care to ensure the safety and care of their passengers.

3. Drivers

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1. Licences

The Authority issues the following driver licences:

- Hackney carriage driver
- Private hire driver

Licences are issued subject to proof of eligibility – driving licence, knowledge test, criminal records check, medical assessment, eligibility to live and work in the UK and awareness of Child Sexual Abuse and Exploitation, including “County Lines”.

The statutory and practical criteria and qualifications for each licence are almost identical and therefore this chapter will apply to all driver licences. However, where differences exist between the licensing regimes, reference will be made to it in this Policy.

Decision making in relation to licensing of drivers is an onerous duty requiring the Authority to take decisions in the interests of the wider community and not in the interests of the licensee or applicant. The safety of the public is the paramount objective of the Authority.

The Authority is aware that in respect of an application for an initial grant of a licence, it is for the applicant to satisfy the Authority on the balance of probabilities that he/she is a fit and proper person to be granted a licence.

An applicant or licensee should not be 'given the benefit of doubt' and if the committee or delegated officer is only "50/50" as to whether the applicant or licensee is a 'fit and proper' person to hold a licence, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being 'beyond reasonable doubt') and the Authority can take into consideration, amongst other things, conduct that has not resulted in a criminal conviction for whatever reason.

Once a person is licensed, they shall be presumed to remain a fit and proper person to be licensed, unless he/she is considered to no longer be a fit and proper person as a result of a conviction, caution, fixed penalty or community resolution, complaint or other non-conviction information that comes to the Authority's attention.

2. **Experience**

All applicants must have held a full UK or European Economic Area (EEA) driving licence for at least 12 months before the date of the application. A full list of EEA Countries is available from the Licensing Section of the Authority.

3. **Right to work**

Applicants for a licence will be required to prove that they have a right to live and work in the UK before being considered for a licence and no licence will be granted/renewed until the applicant is able to prove this requirement. If leave to remain in the country is for a period of less than 3 years a shorter licence will be issued.

All new applicants and on the first renewal for existing drivers a Right to Live and Work in the UK check will be carried out.

4. **Driver Knowledge/ Test**

In order to determine the fitness of a person to hold a licence, all new applicants are required to sit and pass a test on their knowledge of driver conduct, licensing legislation, awareness of Child Sexual Abuse and Exploitation, including 'County Lines' and the highway code. Applicants for a hackney carriage driver's licence will also be tested on their knowledge of the local geography.

Applicants will be permitted to have 3 attempts at passing the knowledge test within a 3 month period. If an applicant fails to pass the test after 3 attempts, they will be required to wait for a period of at least 6 months from the date of the last test taken by them before being permitted to sit the test again.

No driver's licence will be issued without the applicant first gaining a knowledge test pass certificate. If an applicant does not apply for the initial licence and 12 months elapses before an application for a licence is made the applicant will be required to sit a further knowledge test.

The Authority views candidates who cheat or attempt to cheat during the test to be acting dishonestly. Any candidate found cheating will be disqualified and the test fee will be forfeited. In addition, in such cases, the candidate's conduct will be taken into consideration when determining their application for a licence.

5. **Disclosure and Barring Service Check**

Given the role of a hackney carriage or private hire driver the Authority has determined that an Enhanced Disclosure provided by the Disclosure and Barring Service (DBS) is required by all new applicants for a licence. Once licensed, drivers will be required to undergo a further enhanced criminal record check at each three-yearly renewal of their licence. A DBS check on a driver is an important measure in assessing whether or not an applicant is suitable to hold a hackney carriage, private hire or dual hackney carriage/private driver's licence.

The Enhanced Disclosure provides details of all convictions, cautions, fixed penalties and community resolutions held on the Police National Computer. The Enhanced Check will include information held on the DBS's Children and Adult Barred Lists of those individuals considered unsuitable or banned from working with children or vulnerable adults.

In addition, where appropriate the Disclosure Unit of the Police will share with the Authority other relevant information disclosed at the Chief Officer of Police's discretion.

These disclosures include details of spent and unspent convictions, cautions and intelligence. By virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1975, the Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage or private hire driving licences and convictions of such drivers are never spent.

6. **DBS Process**

The Authority does not accept paper applications for Disclosures from the Disclosure and Barring Service (DBS). Applicants applying for a hackney carriage or private hire driver's licence must complete an on-line DBS form and this must be done before submitting the application for the licence to the Licensing Section of the Authority.

To complete an on-line DBS form, applicants will need access to the internet. There are Customer First Centres located in the Borough where computer facilities are offered. Additional guidance on completing the online application is available from the Licensing Section or on the Authority website at www.northtyneside.gov.uk

DBS checks are not portable and only DBS checks applied for through North East Regional Employers Organisation (NEREO), the Authority's service provider, will be accepted. After completing the on-line application applicants will be given a submission reference number. Applicants will need to make a note of this reference number as the Licensing Section will require this at the time of submission of the application for the Licence.

A minimum of three forms of identity will be required in order to verify the identification of an applicant. The full list of approved documentation is available from the Licensing Section of the Authority or on the Authority's website at www.northynteside.gov.uk.

The Authority requires applicants and existing drivers to subscribe to the DBS Update Service. An additional fee payable to the DBS will be required in relation to this service. The Update Service will allow criminal record certificates to be kept up to date.

Licensees will need to provide the Authority with their Disclosure Certificate when applying for a licence or renewal of a licence and complete and sign a Mandate confirming that they consent to the Authority carrying out online checks.

The Update Service will then allow the Authority to carry out free, instant online checks of an individual's certificate to check it is up to date. The Authority will only have to seek a new criminal record check if the DBS advises that something has changed. Further information is available on the Disclosure and Barring Service website at www.gov.uk/dbs. Failure to subscribe to the Update Service will result in the driver's licence being suspended

7. Manual Certificates

The Disclosure and Barring Service occasionally are unable to issue a normal Enhanced Disclosure and instead issue a Manual Certificate which prevents an individual from subscribing to the Update Service.

In such cases the Authority will require the driver to complete an Annual Declaration for the period their hackney carriage/private hire driver's licence remains in force confirming they have not been cautioned by the police or other regulatory body, have not been convicted of any offence(s) including motoring offences and that there are no ongoing criminal investigations or court proceedings in their name. Failure to complete the Annual Declaration will result in the driver's licence being suspended.

8. Applicants who have spent time abroad

If an applicant is newly resident in the UK, they must still apply for an enhanced DBS check regardless of the period of time they have spent in the UK.

Where an applicant has been continually absent from the United Kingdom and Channel Islands for 3 months or more an enhanced DBS disclosure in itself will be insufficient to satisfy the Authority that the applicant is a fit and proper person, as the DBS does not routinely provide criminal record information from non-UK countries. Such applicants should provide a Certificate of Good Conduct or equivalent document from each country where they have been resident/ domiciled.

A Certificate of Good Conduct or equivalent document is an extract from the judicial record or administrative authority in the relevant country testifying to good conduct and/or to any criminal convictions recorded against the individual.

The Director of Environment, Housing and Leisure may approach the relevant Embassy or appropriate body directly to verify documents provided. The applicant will be advised of any costs involved (e.g. in relation to translation) and these costs must be met by the applicant.

The Authority may require the applicant to submit additional information and references.

At all times, the Authority's aim is to protect members of the public who are using vehicles and drivers licensed by the Authority and thus if the documentation produced does not satisfy the Authority, then the application will be refused.

Asylum seekers or persons granted asylum/refugee status will not be required to produce a Certificate of Good Conduct from the country they are claiming asylum from. To gain this exemption the applicant must provide a Certificate of Registration or a letter issued by the Border and Immigration Agency confirming the above and must submit a written request to the Authority for the exemption to apply. A DBS check for time spent in the UK will still be required.

The Director of Environment, Housing & Leisure may determine such applications or refer them to the Regulation & Review Committee.

9. **Relevance of Convictions, Fixed Penalties, Community Resolutions, Cautions and Conduct**

In relation to the consideration of convictions, cautions, fixed penalties and community resolutions recorded against a person and concerns about their conduct please refer to Section A of Chapter 7 of this Policy – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions and Section B of Chapter 7 - Conduct.

In assessing whether the applicant is a fit and proper person to hold a licence, or if an existing driver continues to be a fit and proper person the Authority will consider each case on its own merits.

In some cases, the Authority may require additional DBS checks at a cost to the licensee.

10. **National Register of Taxi Licence Refusals and Revocations (NR3)**

The Authority has signed up to the National Register of Taxi Licence Refusals and Revocations (NR3). On receipt of an application for a hackney carriage or private hire driver's licence this register will be checked for any information concerning the applicant. In addition, should an application for a hackney carriage or private hire driver's licence (new and renewal) be refused, or when an existing drivers' licence is revoked, that information will be placed upon the register.

The Policy that covers the use by the Authority of the information contained on the NR3 register can be found at www.nortytyneside.gov.uk

Referrals to the Disclosure & Barring Service (DBS)

11. In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the Authority to make a referral to the to the DBS and the police. A decision to refuse or revoke a driver's licence because they are considered to pose a risk of harm to a child or vulnerable adult will be referred to the DBS.

A referral by the Authority to the DBS will be made when it is thought that:

- a) A person has harmed or poses a risk of harm to a child or vulnerable adult
- b) A person has satisfied the 'harm test' set out in section 39(3) of the Safeguarding Vulnerable Groups Act 2006 or
- c) A person has received as caution or conviction for a relevant offence; and
- d) The person being referred is, or might in the future be, working in regulated activity.

Following the referral, if the conditions in a) to d) are satisfied the DBS may consider it appropriate for the person to be added to the 'barred list'.

Information on the DBS service and referrals made to them is available here <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

12. **Medical Assessment**

Upon an initial application for a driver's licence the applicant shall produce a completed Medical Certificate Form MC1. This must be completed by the applicants own G.P or a Medical Practitioner with access to the applicant's full medical history. The applicant is responsible for paying the fee for the examination. If necessary, the G.P. may return the completed form direct to the Licensing Section.

Group 2 Medical Standard of Fitness applies. Please refer to Chapter 7 for more details with regard to medical fitness.

Applicants attaining 45 years of age must provide evidence of their medical fitness to hold a licence every five years up until the age of 65 years, after which a medical examination is required every year.

Where a medical examination is due within the term of the licence, the Authority will contact the driver in writing to advise of this. Should the medical certificate not be provided within the relevant timescale, the driver's licence will be suspended until such time as a medical certificate is provided and in certain cases the suspension will be with immediate effect.

Holders of DVLA Group 2 Licences will not be required to provide a medical certificate provided their licences are valid and evidence is produced to confirm this.

In other cases where a more in depth medical has been undertaken for a specific profession (e.g. pilot's licence) then this will be considered on a case by case basis by the Licensing Section.

13. **Child Sexual Abuse and Exploitation (Including 'County Lines')**

The Authority understands that it must ensure that the hackney carriage and private hire licensing regime must protect the vulnerable including children and that Child Sexual Abuse and Exploitation can have a long-term devastating effect.

Child Sexual Abuse and Exploitation is 'everybody's business' and the Authority is committed to working in partnership with and supporting local businesses and the community to raise awareness of this issue. Licensed drivers may see, hear or recognise situations or behaviour that may be of concern to them. As well as being in a position of trust drivers play an important role in helping to safeguard vulnerable people. It is important therefore that licensed drivers and applicants undergo awareness training to assist in the prevention of sexual abuse and exploitation and to know how to report it. By key agencies working together and sharing information sexual abuse and exploitation can be prevented, children and young people are protected, and perpetrators of sexual offences prosecuted.

It is a requirement that all new applicants for a hackney carriage/private hire driver's licence to undertake Child Sexual Abuse and Exploitation awareness training prior to being issued a licence, including 'county lines' exploitation.

All existing drivers are required to undertake sexual exploitation awareness refresher training every three years, with regular updated information leaflets circulated to drivers when required. If refresher training is not completed the driver will be referred to Regulation and Review Committee.

14. **Three Year Driving Licences**

In the majority of cases, the Authority will issue driver licences for up to three years. In certain cases, a threeyear licence will not be appropriate but the Licensing Section will advise if this is the case.

15. **Application Procedure**

16. **New Applications**

The following documents are to be submitted in person or online as applicable for a **new** application:

- Fully completed application form
- Medical Certificate Form (MC1) completed by applicant's own GP or one who has had access to the applicant's full medical history and/or any relevant electronic medical records held or evidence provided that a DVLA Group 2 licence is held. A suitable alternative medical will be considered on a case by case basis

- DBS Submission Reference Number together with appropriate identity documents or evidence provided to confirm subscription to the DBS Update Service
- Fully completed DBS Update Service Mandate form (if required)
- Knowledge Test pass certificate
- Driving Licence
- Fully completed mandate for DVLA licence check
- Evidence of a right to reside and work in the UK
- Evidence of completion of CSAE awareness training
- Any additional information requested by the Licensing Section.

Fees:

- Licence fee including DBS check fee.

The application will not be determined until the knowledge test has been taken and passed, a medical certificate and Enhanced Disclosure and where applicable a Certificate of Good Conduct and any additional information requested are received by the Authority. Any incorrectly completed forms will be returned.

If the application is withdrawn or refused the fee will be refunded minus the proportion of the charge for the DBS and knowledge test fee and an administrative charge. Should the application be appealed, the administrative charge will be higher.

17. Renewals

Applications to renew a licence must be submitted in person or on-line as applicable prior to the expiry date of the current licence.

There is no legal requirement for the Authority to send out reminders for renewals for licences, but to aid drivers the Licensing Team will endeavour to do so. However, the responsibility rests with the driver to ensure documentation is provided within the appropriate timescales. If the required documents are not produced the application will not be determined.

The following documents are to be submitted for a **renewal** application:

- Fully completed renewal form
- Medical Certificate Form (MC1) completed by applicant's own GP or one who has had access to the applicant's full medical history and/or any relevant electronic medical records held or evidence provided that a DVLA Group 2 licence is held. A suitable alternative medical will be considered on a case by case basis, if required
- DBS Submission Reference Number together with appropriate identity documents or Evidence provided to confirm subscription to the DBS Update Service
- Fully completed DBS Update Service Mandate form (if required)
- Driving licence and/or fully completed DVLA mandate

- Evidence of a right to reside and work in the UK (where required)
- Evidence of completion of a refresher CSAE awareness package (when required)
- Any additional information requested by the Licensing Section.

Holders of existing driver's licences must apply to renew their licence in the four weeks preceding the expiry date and the licence holder is encouraged to submit the application at least 10 working days prior to the expiry of the existing licence to allow the application to be processed. Renewal applications submitted after the expiry date will not be accepted. Any late renewals will be classed as a new application with Grandfather Rights and a higher licence fee will apply.

Fees:

- Licence fee including DBS check fee if required.

If the application is refused the fee will be refunded minus the proportion of the charge for the DBS and an administrative charge. Should the application be appealed, the administrative charge to be paid will be higher.

18. **Incomplete applications**

An application to renew a licence that has been submitted with the appropriate licence fee prior to the expiry of that licence, but is incomplete, will not be processed.

In such cases the Authority will issue a written request to the licensee for the additional information to be provided within 14 days of the expiry of the licence. During this time the licensee can continue to drive.

If the licensee fails to provide the information within this time period the application will be refused, to which the licensee will have a right of appeal. During this time the licensee can also continue to drive. If no appeal is received within 21 days, then the driver must cease driving.

Renewal applications will be processed and a driver's licence issued pending any required enhanced DBS check, unless the Authority has reasonable grounds for concern in which case the renewal will not be granted until or unless these concerns have been resolved.

Any licence that is issued pending the result of a DBS check will be on a "without prejudice basis" meaning such licences are issued without prejudice to any subsequent decision that the Authority may make when all of the relevant information from the DBS check is to hand.

If no evidence is provided of an enhanced DBS check having been submitted and sufficient accompanying documents to proceed with the renewal application, the application will not be accepted and no "without prejudice" licence issued.

If convictions, cautions etc. or charges are disclosed in the DBS check, the Director of Environment, Housing & Leisure will make a decision as to their relevance. The Authority may require further information from the Police, Crown Prosecution Service or other agencies prior to making a decision. If the information received is deemed relevant according to this Policy, the application for renewal of a licence may be refused. Appeals against a refusal must be made in writing to the Regulation and Review Committee and/or Crown Court or Magistrates Court and be received within 21 days of receipt of the decision.

If details of any convictions, cautions etc. are received through the DBS check process and these were not disclosed by the applicant on the signed declaration form stating that there are no new convictions, cautions, fixed penalties or community resolutions then this will be treated seriously, and the appropriate action taken in accordance with the Authority's Enforcement Policy.

The Director of Environment, Housing & Leisure may refer a decision to renew a driver's licence to the Regulation and Review Committee.

If a renewal of a licence is refused the decision and reasons for the decision will be notified in writing to the applicant or licensee within 5 working days of the decision.

19. **Grandfather Rights**

The Authority will take account of the previous DBS check and medical history held of any driver who has not renewed their driver's licence but re-applies within 6 months of the expiry date. If a knowledge test has been passed, then a period of 12 months will apply in relation to this.

20. **Driver Identity badges**

Where a licence is issued, drivers will be issued with two identity badges detailing their name, licence number, expiry date of the licence and a photograph of the licensee. One badge must be worn at all times when the driver is working. Drivers are required to display the other badge in the vehicle where it is clearly visible to passengers.

Where an applicant has applied for and been granted both a hackney carriage driver's licence and a private hire driver's licence, rather than issue two identity badges for each type of licence (i.e four identity badges) the Authority will issue two 'Dual Licence' identity badges denoting that the driver is licensed to drive either type of vehicle.

Lost or damaged badges must be notified to the Licensing Section by the next working day. A fee will be charged for each replacement badge.

21. **Conditions of Licence/Byelaws**

The conditions set out at **Appendix E** are considered reasonably necessary and as such may be legally imposed in respect of private hire drivers.

The Authority is not permitted to attach conditions to a hackney carriage driver's licence. The Authority has adopted Byelaws which regulate hackney carriage drivers. It is, however, empowered to attach conditions to a private hire driver's licence as are considered necessary.

It is the responsibility of a private hire driver on the grant of a driver's licence to ensure that they have read the conditions attached to the licence and to fully understand the requirements imposed on them by such conditions. Failure to adhere to the conditions could result in disciplinary action being taken against the driver.

No private hire driver should be operating as a licensed driver without being aware of the conditions attached to their licence and all drivers will be expected to have read the conditions on receipt of their licence.

It is the responsibility of a hackney carriage driver on the grant of a driver's licence to ensure that they have read the Byelaws adopted by the Authority which regulate their driver's licence. Please see **Appendix I** for Byelaws. Failure to adhere to the Byelaws could result in disciplinary action being taken against the driver including prosecution.

No hackney carriage driver should be operating as a licensed driver without being aware of the Byelaws adopted by the Authority in relation to hackney carriage drivers and all drivers will be expected to have read the Byelaws on receipt of their licence.

22. **Code of Good Conduct**

The Authority has introduced a Code of Good Conduct for all drivers that the Authority encourages drivers to operate in accordance with. This serves to promote the objectives set out in this Policy in respect of hackney carriage and private hire licensing. This Code of Good Conduct will be taken into consideration when determining disciplinary matters.

The Code of Conduct is attached at **Appendix F** to this policy.

23. **Driver's Dress Code**

A dress code serves to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles are vocational drivers.

In order to raise the standard of the licensed trade, drivers should operate at all times in a professional manner and conform to a minimum standard of dress. A Dress Code for licensed drivers is therefore in place and attached at **Appendix G** to this Policy. The Authority will not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.

4. Private Hire Operators

Contents

1. Requirements and obligations
2. Criminal Record Checks
3. Conditions
4. Other obligations
5. Application Procedure
6. Licence Duration
7. Address from which an operator may operate
8. Record Keeping
9. Change of Address
10. Convictions/Cautions

1. Requirements and obligations

Any person who operates one or more private hire vehicles must apply to the Authority for a private hire operator's licence.

The objective in licensing private hire operators is to ensure the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.

A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

A private hire operator must ensure that every private hire vehicle despatched by him/her is licensed and driven by a person who holds a private hire driver's licence. All three licences (operator, vehicle and driver) must be issued by the Authority.

It is a criminal offence to operate a private hire vehicle without an operator's licence.

Operators and prospective operators need to familiarise themselves with the law and ensure they employ suitable work methods in order to comply with the law and avoid committing licensing offences.

Applications for an operator's licence must be made on the prescribed form and the appropriate fee paid. The Authority will then decide whether the applicant is a fit and proper person to hold an operator's licence.

Whilst it is accepted that an operator does not have the same level of direct contact with the public as a licensed driver (unless s/he holds a hackney carriage or private hire driver's licence), it is nevertheless the case that in performing their duties an operator will be in possession of considerable amounts of personal and private information. Such information must be treated in confidence, and must not be disclosed to others or used by the operator or their staff for criminal or other unacceptable purposes.

Therefore, the Authority needs to be satisfied that an operator is a fit and proper person to hold, or continue to hold, an operator's licence.

For the reasons set out above and because the public must have trust and confidence in the safety and integrity of the private hire system, similar standards will be applied to operators as to drivers outlined in this Policy.

When determining the fitness and propriety of operators, Officers and Members will consider the following test:

"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"

If the answer to this question is an unqualified yes, then the test is satisfied. If Officers or Members have doubts then further consideration will be given as to whether the individual is a fit and proper person to hold an operator's licence.

The Authority may also require additional information from an applicant/operator when determining an application such as, details of policies on lost property, dealing with complaints, record keeping and employing ex-offenders in any role connected to the booking/dispatch of vehicles.

An operator will be required by way of a licence condition to keep a register of all staff that take bookings and/or dispatch vehicles and have available the information required in the 'Booking/Dispatch Staff' section below.

2. Criminal Record Checks

Private hire operator's licences will only be granted to persons that the Authority is satisfied are fit and proper and pose no threat to the public and have no links to serious criminal activity. This will be ascertained by way of a Basic Disclosure of any criminal convictions from the Disclosure and Barring Service, information requested on the application form or if deemed necessary during interview with the Licensing Officer.

Before an application for a private hire operator's licence will be considered the applicant (whether this be an individual or the Director of a limited company) must provide a current (less than 1 month old) Basic Disclosure of criminal convictions from the Disclosure and Barring Service. If the applicant is currently licensed as a driver with this Authority, they will be exempt from this requirement as they will already have had a higher level of criminal record check.

Where a private hire operator's licence is in force in the name of a limited company and a new director(s) is/are proposed to be appointed to that limited company then each proposed director will be required to provide a Basic Disclosure of convictions from the Disclosure and Barring Service. If the applicant is currently licensed as a driver with this Authority, they will be exempt from this requirement.

In exceptional circumstances, the Authority may take relevant spent convictions into account having regard to the factors set out in the judgment of *Adamson v Waveney District Council* [1997] 2 All ER 898 when determining an individual's suitability to hold an operator's licence. In the case of a company, any relevant spent convictions of an officer of the company may be taken into account in exceptional circumstances when determining the suitability of the company to hold a licence.

3. **Booking/Dispatch Staff**

The Authority needs to be satisfied that an operator can demonstrate that all of their staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. For this reason, an operator's licence will include a condition requiring the operator to keep and maintain a register of all staff that take bookings and/or dispatch vehicles.

Operators will also be required to evidence that they have had sight of a Basic DBS check on all individuals listed in their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individual added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be less than 1 month old when viewed by the operator, alternatively the operator could use a 'responsible organisation' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

The operator's register of staff must be a 'living document' that is kept up to date and maintains records of all those in these roles for the same duration as booking records are required to be kept by way of a licence condition, i.e. not less than one year. This will enable cross-referencing between the register of staff and the booking records.

A record of the fact that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.

The register must be available for inspection at the request of an Officer of the Authority.

4. **Conditions**

The Authority has power to impose such conditions on an operator's licence as it considers reasonably necessary.

On the grant of an operator's licence the operator must read and understand the conditions attached to the licence. Failure to adhere to the conditions of the licence could result in disciplinary action being taken against the operator.

No operator should be operating as such without being aware of the conditions attached to their licence and all operators will be expected to have read the conditions on receipt of their licence.

Appendix H sets out the model conditions to be attached to an operator's licence which cover the standards of service expected.

5. **Other obligations**

Applicants are advised to ensure that the appropriate public liability insurance has been taken out for premises and that appropriate planning permission is in place.

Applicants for operator licences (new or renewal) will be required to prove that they have a right to work in the UK before being considered for a licence. No licence will be granted until the applicant is able to prove that they have a right to work in the UK. If leave to remain in the country is less than 5 years a shorter licence will be issued.

All new applicants and on the first renewal for existing drivers a Right to Live and Work in the UK check will be carried out.

6. **Application Procedure**

7. **New Application**

The following documents are to be submitted in person or by post, online or e-mail for a new application:

- Application form
- Basic Disclosure of criminal convictions certificate (if not currently licensed as a driver) of the applicant and his/her/its staff
- Evidence of a right to reside and work in the UK (where required)
- Business Plan
- Any additional information requested by the Licensing Section
- A register of their staff who take bookings or despatch vehicles and operators .

Fees:

- Licence fee

If the application is withdrawn or refused the fee will be refunded minus an administrative charge. Should the application be appealed, the administrative charge will be higher.

8. **Renewals**

Applications to renew a licence must be submitted in person or by post, on-line as applicable prior to the expiry date of the current licence.

There is no legal requirement for the Authority to send out reminders for renewals for licences, but to aid operators the Licensing Team will endeavour to do so. However, the responsibility rests with the operator to ensure documentation is provided within the appropriate timescales. If the required documents are not produced the application will not be determined.

The following documents are to be submitted for a **renewal** application:

- Fully completed renewal form
- Basic Disclosure of criminal convictions certificate (if not currently licensed as a driver) of the applicant and his/her/its staff
- Evidence of a right to reside and work in the UK (where required)
- Any additional information requested by the Licensing Section.

Fees

- Licence fee.

Holders of existing operator licences must apply to renew their licence in the four weeks preceding the expiry date and the licence holder is encouraged to submit the application at least 10 working days prior to the expiry of the existing licence to allow the application to be processed. Renewal applications submitted after the expiry date will not be accepted.

Officers may require a site visit to the premises prior to the determination of the application for an operator's licence.

If the application is withdrawn or refused the fee will be refunded minus an administrative charge. Should the application be appealed, the administrative charge will be higher.

9. Incomplete applications

An application to renew a licence that has been submitted with the appropriate licence fee prior to the expiry of that licence, but is incomplete, will not be processed.

In such cases the Authority will issue a written request to the licensee for the additional information to be provided within 14 days of the expiry of the licence. During this time the licensee can continue to operate.

If the licensee fails to provide the information within this time period the application will be refused, to which the licensee will have a right of appeal. During this time the licensee can also continue to operate. If no appeal is received within 21 days, then the operator must cease operating.

The Director of Environment, Housing and Leisure may refer a decision to renew an operator's licence to the Regulation and Review Committee.

If a renewal of a licence is refused the decision and reasons for the decision will be notified in writing to the applicant or licensee within 5 working days of the decision.

10. Grandfather Rights

The Authority will take account of the previous DBS check held of any operator who has not renewed their operator's licence but re-applies within 6 months of the expiry date.

11. **Licence Duration**

Operator's licences will have a duration of up to five years. Fees paid in relation to operator licences will be subject to a partial refund on the unexpired portion of the licence should the operator choose to surrender their licence.

Refunds will be payable in relation to each full year remaining on the licence and an administration fee will be levied.

12. **Address from which an operator may operate**

Upon grant of an operator's licence the Authority will specify the address or addresses from which the operator may operate. The premises must be in North Tyneside.

If an operator wishes to change the premises from which they operate they should seek approval from the Authority prior to any change.

13. **Record Keeping**

Operators are required to keep records of each proprietor, vehicle and driver, booking records, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare agreed at the time of booking. **Appendix H** refers.

Records should be preserved for a period of not less than 12 months and be available for inspection at the request of an Officer of the Authority.

14. **Change of Home Address**

The operator must advise the Licensing Section of the Authority in writing of any change of his home address within 7 days of such a change taking place.

15. **Convictions, Cautions, Fixed Penalties and Community Resolutions**

The operator shall disclose to the Authority within 7 days in writing of any conviction, caution, fixed penalty or community resolution received in relation to themselves or in the case of a limited company, against the company secretary or any of its directors.

16. **Use of Passenger Carrying Vehicles (PCV) Licensed Drivers and Public Service Vehicles (PSV)**

Members of the public who book a private hire vehicle through the operator are entitled to expect that they will receive a private hire licensed vehicle and driver rather than a PCV licensed driver driving a PSV.

An operator's licence will include a condition prohibiting the use of a driver who holds only a PCV licence and the use of a PSV without the informed consent of the person making the booking. The operator will be required to evidence the informed consent of that person.

17. **Material Change in Circumstances**

If a proposed material change in the circumstances of the operator's business or method of operation since the grant of the last operator licence is considered (for example a proposed new Director or a change of premises) the operator shall notify the Authority in advance of such material change so that the proposed change can be considered by the Authority.

18. **Sub-Contracting and Outsourcing Bookings**

Private hire operators are legally permitted to outsource or sub-contract a booking to another licensed private hire operator. In such cases the operator must ensure that that the operator to which the booking has been outsourced or sub-contracted will provide evidence of comparable protections to protect children and vulnerable adults. This evidence must be in the form of a written undertaking and shall be available to for inspection at the request of an Officer of the Authority.

5. Fares

Contents

1. General
2. Fare Tariff Formula
3. Table of Fares
4. Receipts
5. Overcharging

1. General

Licensing authorities have the power to set hackney carriage fares for journeys within the prescribed area.

Hackney carriage fares, set by the Authority, are a maximum and can be negotiated downwards by the hirer.

The Authority may review the fare scales when requested by the trade. When determining the level of fares consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a service at all times it is needed.

The Authority is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and private hire operator.

When a hackney carriage vehicle is used for private hire services the fare charged cannot exceed that which would be charged under the table of fares applicable to hackney carriages. The meter must be used for all journeys. Failure to comply with that requirement is an offence.

When a journey ends outside of the Authority's district a fare greater than that shown on the meter may be charged but only if an agreement has been made with the hirer in advance. In the absence of such an agreement, only the metered fare can be charged. The meter must be used during all journeys. Failure to comply with these requirements is an offence.

2. Fare Tariff Formula

The Authority prescribes the maximum fares that can be charged by a hackney carriage. The table of fares is not attached to this Policy as it is reviewed annually or more frequently depending on emerging circumstances e.g. the economic climate. A current table of fares is available from the Licensing Section or on the Authority website at www.northtyneside.gov.uk.

A formula is used to set maximum fares and charges. A full explanation of the formula is available from the Licensing Office.

A Notice of any variation to the maximum fare will be advertised in the Newcastle Evening Chronicle or similar newspaper with a date set of 14 days from publication for making objections to the variation of fares.

If no objections are received the fare variation will have immediate effect at the end of the date stated for lodging objections. If any objections are received these will be referred to the Director of Environment, Housing & Leisure.

3. **Table of Fares**

Tables of fares will be provided to each hackney carriage licensee, which must be displayed in the vehicle so that they are easily visible to all hirers. Replacement fare tables are available from the Licensing Office for an additional fee.

4. **Receipts**

A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.

5. **Overcharging**

All meters must be calibrated to the correct fare scale. It is an offence for the driver to demand more than the fare shown on the meter. Wheelchair users cannot be charged extra for transportation.

6. **Additional Tariffs**

Any additional tariff(s) programmed to a taximeter (for example private hire operator rates) must only be at a rate lower than the official hackney carriage fares in force at that time.

Where a vehicle is fitted with a taximeter that is found to have a tariff at a higher rate than the official hackney carriage rate the vehicle licence will be suspended.

6. Fees

Contents

1. Fee Structure
2. Variations to fee structure
3. Payments
4. Payment Refunds

1. Fee Structure

The Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to set fees for hackney carriage and private hire vehicles, drivers and operator licences. The legislation permits the local authority to recover the cost of providing the licensing scheme and such fees must be reasonable.

Section 53 (2) of the 1976 Act controls the levying of fees in respect of driver's licences for both hackney carriages and private hire vehicles. Section 70 of the 1976 controls the levying of fees for hackney carriage proprietor's licences, private hire vehicle licences and private hire operator's licences.

The current scale of fees and charges are available from the Licensing Office and via the Authority website at www.northynteside.gov.uk.

2. Variations to fee structure

The fee structure is reviewed annually as part of the Authority's budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.

A Notice of any variation to the maximum fees will be advertised in the Newcastle Evening Chronicle newspaper or similar newspaper with a date set 28 days from publication for making objections to the variation of fees.

If no objections are received the fee variation will have immediate effect at the end of the 28 day period specified for objections. If any objections are received the matter will be referred to Regulation and Review Committee for consideration.

3. Payments

Payments can be made in the form of cash in person, cheques by post made payable to the Authority or by debit or credit card. Under no circumstances must cash accompany postal applications.

4. Surrender of Licence Refund Payments

Where a licence is surrendered the refund of the licence fee will be calculated on annual maintenance and annual management costs and will exclude the Basic cost/Application process.

Fees paid in relation to hackney carriage and private hire vehicle licences are subject to a partial refund on the unexpired portion of the licence, minus any test fee(s), should the proprietor choose to surrender their licence during the period of the licence. Refunds are payable for each full quarter left and an administration fee will be levied.

Fees paid in relation to hackney carriage and private hire driver licences are subject to a partial refund on the unexpired portion of the licence should the driver surrender their licence during the period of the licence. Refunds are payable for each full year left and an administration fee will be levied.

Fees paid in relation to private hire operator licences are subject to a partial refund on the unexpired portion of the licence should the operator surrender their licence during the period of the licence. Refunds are payable for each full year left and an administration fee will be levied.

7. **Convictions, Cautions, Conduct, Fixed Penalties, Community Resolutions & Medical Fitness**

Contents:

1. Hackney Carriage & Private Hire Drivers
2. Rehabilitation of Offenders Act 1974

Section A – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions

3. General Policy
4. Formal Cautions, Fixed Penalties and Community Resolutions and Other Matters
5. Barred Lists
6. Outstanding charges or summonses/Non-conviction information
7. Offences
8. Offences of Dishonesty
9. Crimes Resulting in Death
10. Offences of Violence
11. Discrimination
12. Possession of a Weapon
13. Drugs Offences
14. Possession of Drugs
15. Sexual & Indecency Offences
16. Motoring Offences
17. Minor Traffic Offences
18. Major Traffic Offences
19. Disqualification
20. Vehicle Use Offences
21. Licensing offences
22. **Section B – Conduct**
23. **Section C – Medical Fitness**
24. Production of medical certificate
25. Group 2 Standard
26. Age
27. Monitoring of medical condition
28. Refusal, Suspension and Revocation on grounds of medical fitness

1. **Hackney Carriage & Private Hire Drivers**

When an application is made for a private hire or hackney carriage driver licence the Authority must be satisfied that the applicant is a **fit and proper** person before issuing the licence. By law the Authority shall not licence drivers unless it is satisfied of this (section 51 & section 59 Local Government (Miscellaneous Provisions) Act 1976).

The legislation is worded in such a way so as to put the onus on the applicant to produce evidence to satisfy the Authority that they are a fit and proper person, rather than for the Authority to prove that they are not.

The Authority may fail to be satisfied on the balance of probability that an applicant is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there are grounds to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.

In addition, the Authority may:

- suspend
- revoke or
- refuse to renew.

a hackney carriage or private hire driver licence:

- if the licensee has been convicted of an offence involving dishonesty, indecency or violence or
- if the licensee has been convicted of a private hire/hackney carriage licensing offence
- if, the licensee (in some cases), since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty or
- for any other reasonable cause.

(section 61 LG(MP) Act 1976)

Any other reasonable cause will include convictions for other types of offence than those mentioned above, a lack of medical fitness or conduct.

If it appears to be in the interests of public safety to do so, then a revocation or suspension of a licence will have immediate effect and the driver will be given notice of that decision and an explanation for the decision taken. The effect of this decision will mean that a driver cannot continue to drive licensed vehicles. The revocation or suspension will continue to apply should an appeal be made against the decision. In certain cases, a licence may be revoked or suspended without taking immediate effect.

2. **Rehabilitation of Offenders Act 1974**

Hackney carriage and private hire drivers are excluded from the provisions of the Rehabilitation of Offenders Act 1974. **All** convictions, including spent convictions must be declared on first application or any renewal application and will be considered as part of the application process.

3. Section A – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions

General Policy

The overriding consideration of the licensing regime is the safety of the public. The Authority has a duty to ensure that, as far as possible, those licensed to drive the public in hackney carriage or private hire vehicles are suitable persons to do so, that they are safe drivers with a good driving record, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their position to abuse or assault customers.

The aim of the Authority is not to punish the applicant/licensee following a conviction or other form of disposal but to ensure that public safety is not compromised and to protect the public from those who have demonstrated a propensity towards wrongdoing.

This guidance is intended to assist Licensing Officers and the Regulation and Review Committee (the Committee) in decision making and to ensure as far as possible that a consistent approach to decision making is maintained. However, each case has to be decided upon its own merits and officers and the Committee will not stick rigidly to this guidance if there are clear and compelling reasons to depart from it.

It may be appropriate to depart from the general policy in this guidance in some cases, if there are compelling reasons to do so, for example, in situations where an offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern or trend of repeated offending or inappropriate behaviour which will be taken into account. Where there has been a conviction for a sexual offence or a crime which resulted in the death of another person an application for a licence will be refused. Where an applicant has served a custodial sentence, the Authority will consider the number of years since their release and the period for which they have been free of conviction when determining their fitness to be licensed.

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation of another individual irrespective of whether the victims are adults or children they will not be, or continue to be, licensed. "Exploitation" is taken to include slavery, child sexual abuse including grooming, psychological abuse, emotional abuse and financial abuse.

This guidance is also intended to assist applicants, licensees and those representing them, by clearly setting out the expectations that the Authority has in relation to applicants/licenses who have received convictions. This should also minimise the time spent and associated costs incurred by both the Authority and applicants/licenses in the licensing process.

This guidance will be taken into account and will be followed when dealing with a new application, a renewal application and when considering whether to issue a warning, suspend or revoke an existing licence.

In considering evidence of an applicant's character and fitness to hold a drivers licence, where previous convictions or other information relating to criminal matters is disclosed, the Authority will consider the nature of the offence or allegation made, when it was committed, the date of conviction, the applicants age when the offence was committed and any other factors which might be relevant. However, where an applicant has been convicted of a criminal offence, the Authority cannot review the merits of the conviction [Nottingham City Council v Mohammed Farooq (1998)] but it may look at the circumstances surrounding the conviction.

This guidance is not an attempt to define who is a fit and proper person.

This guidance does not deal with every type of offence. However, offences described in this guidance and similar offences, though differently described or worded in any statutory provision, modification or re-enactment, will be taken into account in accordance with this guidance. In all cases the safety of the public will be the primary concern of the Authority.

4. Formal Cautions, Fixed Penalties and Community Resolutions and Other Matters

For the avoidance of doubt, for the purposes of this guidance, cautions, fixed penalties and community resolutions shall be treated as though they were convictions and in this Policy/guidance any reference to "conviction" includes formal cautions, fixed penalties, community resolutions and matters that amount to criminal behaviour but which have not resulted in a conviction.

Cautions

The Authority requires applicants and licensees to reveal promptly any cautions they may have received because a caution can only be imposed following an admission of guilt which is equivalent to a guilty plea on prosecution. Before a caution can be administered the police or prosecuting authority must have considered that there was sufficient evidence to proceed with a prosecution had the offer of a caution been refused.

Fixed Penalties

Fixed penalties are not limited to motoring offences and may be given for a range of offences including shop theft, minor public order offences and offences such as littering, dog fouling etc. Fixed penalties must be declared to the Authority promptly in the same way as convictions are declared and may be taken into account by the Authority. This is because payment of a fixed penalty indicates acceptance of guilt.

Community Resolutions

A community resolution imposed for crime or anti-social behaviour must be promptly disclosed to the Authority. This is because a community resolution can only be imposed where the offender admits guilt.

Other Matters

It should be recognised that matters that have not resulted in a criminal conviction (whether as the result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the applicant/licensee has been bailed or released under investigation) can and will be taken into consideration by the Authority.

In addition, complaints that do not have police or other investigating authority involvement will be considered by the Authority when assessing the fitness of a person to hold a licence.

5. Barred Lists

Part of the role of the DBS is to help prevent unsuitable people from working with vulnerable groups including children, barring them from doing so where necessary. As part of the enhanced DBS check the Authority is provided with information about whether an applicant is barred from working with children or adults and is included on either Barred List. In the interests of public safety, unless there are exceptional circumstances, an application for a licence will normally be refused where the applicant appears on either barred list.

6. Outstanding charges or summonses/Non-conviction information

Where an applicant/licensee is the subject of an outstanding charge or summons their application will not usually be determined until the conclusion of proceedings or the charge(s) has/have been withdrawn.

If an applicant/licensee has been arrested or charged, but not convicted, for a serious offence which suggests they could be a danger to the public, consideration will be given to refusing the application or if currently licensed to further action being taken having regard to this Policy and guidance.

7. Offences

This guidance does not deal with every type of offence.

However, offences described in this guidance and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.

8. **Offences of Dishonesty**

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the appropriate fare and in other ways. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may include especially vulnerable people. For these reasons a serious view is taken of any convictions involving dishonesty.

Applicants/Licensees with a conviction for an offence involving dishonesty will not be granted a licence until at least 7 years have elapsed since the completion of any sentence.

9. **Crimes Resulting in Death**

Applicants/Licensees convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person will not be licensed.

10. **Offences of Violence**

Applicants/Licensees with a conviction, for an offence of violence, or connected with any offence of violence, will not be granted a licence until between 10 years have elapsed since the completion of any sentence imposed.

11. **Discrimination**

Where an applicant/licensee has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

12. **Possession of a Weapon**

Where an applicant/licensee has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

13. **Drugs Offences**

14. **Supply of Drugs/Cultivation of Drugs**

Applicants/Licensees with a conviction for an offence of supplying or possession of drugs with intent to supply or connected with possession with intent to supply, will be refused a licence until at least 10 years have elapsed since the completion of any sentence imposed.

15. **Possession of Drugs**

Applicants/Licensees with a conviction for an offence of possession of drugs or related to the possession of drugs will be refused a licence until at least 5 years

have elapsed since the completion of the sentence imposed. In these circumstances the applicant/licensee will have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

16. **Sexual and Indecency Offences**

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers. Therefore, applicants/licensees with a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition, the Authority will not grant a licence to a person who is on the Sex offenders Register or on any barred list.

17. **Exploitation**

Applicants/licensees convicted for an offence involving, related to or has a connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse.

18. **Motoring Offences**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying members of the public. Any motoring conviction demonstrates a lack of professionalism and will be considered in that light. The single occurrence of a minor traffic offence will not generally prohibit the grant of a licence or action being taken against a licensee. However, any subsequent motoring convictions may be evidence of the fact that the applicant/licensee does not take their responsibilities as a professional driver seriously and is therefore not, or no longer remains, a fit a proper person to hold a licence.

19. **Minor Traffic Offences**

Where an applicant/licensee has between 3-5 penalty points either at the time of application or during the licence period this will be considered as a "Minor Traffic offence". Convictions for minor traffic offences should not prevent a person from obtaining a licence. In the majority of cases the applicant/licensee will receive a warning or advice regarding future conduct.

Bearing in mind the number of miles they drive; it is expected that licensed drivers are more likely than the average motorist to get convictions for minor traffic offences. Where an applicant/licensee has accrued 6 or more penalty points for two or more minor traffic offences in the majority of cases a formal written warning will be issued.

20. **Major Traffic Offences**

Road Traffic Offences which carry mandatory disqualification from driving will always be considered as “Major Traffic offences”. Where an applicant / licensee has 6 or more penalty points for a single offence or where the court has disqualified the driver for a single offence this will be considered as a Major Traffic offence. In the majority of cases an applicant will be refused until a period of 2 years has lapsed since the date of the last conviction or the restoration of the DVLA licence. Existing drivers will generally be referred to the Regulation and Review Committee.

Where an applicant/licensee has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until between 7 years have elapsed since the completion of any sentence or driving ban imposed. Following a conviction for driving under the influence of drugs, an applicant will have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant/licensee has a conviction for using a hand-held mobile telephone or other hand-held interactive communication device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

21. **Disqualification**

In totting-up cases where disqualification is considered by the Court, even if the court does not disqualify a driver (e.g. because of exceptional circumstances), the Authority is likely to refuse a hackney carriage or private hire drivers licence and an applicant will normally be expected to show a period of 12 - 18 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-qualification. Existing drivers will generally be referred to the Regulation and Review Committee. This is because repeat motoring convictions would suggest that the driver does not take his/her professional responsibilities as a licensed driver seriously and may as a result no longer be considered a fit and proper person to hold a licence.

In totting-up cases where disqualification is imposed by the court, the Authority is likely to refuse a hackney carriage or private hire driver’s licence until a period of 12 – 18 months has lapsed since the restoration of the DVLA licence. Existing drivers will be referred to the Regulation and Review Committee.

22. **Vehicle Use Offences**

Where an applicant/licensee has a conviction for any offence which involved the use of a vehicle (including both hackney carriage and private hire vehicles) a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

23. **Licensing Offences**

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act

1976 (the Acts) and hackney carriage Byelaws is to ensure the protection of the public. The main private hire and hackney carriage offences are available from the Licensing Office or on the Authority's website www.northtyneside.gov.uk.

A serious view is taken of convictions for offences under the Acts and Byelaws when deciding whether an applicant/licensee is considered to be, or remain, a fit and proper person to hold a licence.

Where an applicant/licensee has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 3 years have elapsed since the completion of any sentence imposed.

Where an applicant/licensee has a conviction for any offence which involves the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

24. **Section B – Conduct**

Criminal convictions are not the only criteria used when considering whether an individual is a fit and proper person to be licensed. Other factors, including the applicant or licensee's demeanour, appearance and behaviour may be taken into account in determining fitness and propriety as well as any complaints received about a current licensee.

The Authority may require an applicant to submit information it reasonably considers necessary to enable it to determine whether a licence should be granted or whether conditions should be attached to a licence (section 57 LG(MP) Act 1976).

The courts have found that the main purpose of the licensing regime is to prevent licences being given to, or used by, those who are not suitable to hold a licence, taking into account their driving record, driving experience, sobriety, mental and physical fitness, honesty and ensuring that they would not take advantage of their employment to abuse or assault passengers (Leeds City Council v Hussain [2002]).

When determining the fitness and propriety of drivers Officers and Members will consider whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom they care, to get into a vehicle with the applicant/licensee alone.

If the answer to this question is an unqualified "yes", then the test is probably satisfied. If the Officers or members have doubts then further consideration will be given as to whether the individual is a fit and proper person.

Matters that have not resulted in a criminal conviction as explained in Section A of this guidance can and will be taken into account by the Authority when determining the fitness of a person to hold, or to continue to hold, a licence.

25. Section C – Medical Fitness

26. Production of medical certificate

Under section 57 of the Local Government (Miscellaneous Provisions) Act 1976 the Authority may require an applicant for a hackney carriage or private hire drivers licence to produce a certificate signed by a registered medical practitioner to the effect that s/he is physically fit to be a driver of such a vehicle. The Authority requires a medical certificate upon an initial application for a licence.

In addition or in place of such a certificate the Authority may require an applicant to submit to examination by a registered medical practitioner selected by the Authority as to his/her fitness to be a driver of a hackney carriage or private hire vehicle.

The medical practitioner must confirm that:

1. they have examined the applicant
2. the applicant is registered with the practice and/or
3. they have had full access to the applicant's medical records
4. the medical examination was carried out to DVLA Group 2 standard
5. s/he considers the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle.

If the medical practitioner has not had access to the applicant's full medical records the Authority may require more frequent medical testing and/or select a practitioner to undertake a full medical examination of the applicant. All expenses are payable by the applicant.

27. Group 2 Standard

In line with DVLA recommendations, the Authority has adopted DVLA Group 2 driver standard for medical fitness of hackney carriage and private hire drivers. This reflects the higher risk caused by the length of time the driver may spend at the wheel in the course of his/her occupation and the responsibility they have for the safety of their passengers and the public.

28. Age

The Authority's policy is that a medical certificate is required upon an initial application for a licence. It remains valid until a driver reaches the age of **45 years** when a further medical certificate is required. A medical certificate is then required every **5 years until the age of 65** after which a certificate is required on a yearly basis.

29. **Monitoring of medical condition**

In addition, where a driver suffers from a medical condition that requires monitoring but would not prevent him/her from holding a licence the Authority may, as an additional condition of their licence, require written confirmation from his/her GP or consultant on each annual renewal that s/he remains fit to carry out the duties of a driver. Any condition attached to a driver's licence will be regularly reviewed.

It is a requirement that a driver notifies the Authority immediately of any medical condition which could affect their ability to carry out the duties of a licensed driver.

30. **Drug Testing**

The Authority has a strict policy in respect of illicit substance misuse. If a driver is suspected to have taken or to have been under the influence of any illicit substance, the Authority will the driver to undertake testing through an approved service provider or medical practitioner (this can be hair strand, blood or urine).

The Authority does not carry out drug testing of drivers. Testing must be arranged by the individual driver and the cost of testing must be borne entirely by the driver.

If testing reveals a positive result for any substance the driver's licence will be suspended by the Authority.

Failure to comply with a request to provide a drug test will also result in suspension of the driver's licence.

31. **Refusal, Suspension and Revocation on grounds of medical fitness**

If the Authority is not satisfied on the balance of probabilities as to the medical fitness of an applicant a hackney carriage or private hire driver's licence will not be granted (section 51 & section 59 LG (MP) Act 1976).

If the Authority is not satisfied as to the medical fitness of a hackney carriage or private hire driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under section 61 Local Government (Miscellaneous Provisions) Act 1976.

Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 allows the Authority to revoke or suspend an existing driver's licence **with immediate effect** when that driver no longer meets the Group 2 medical standard and in the opinion of the Authority's it is in the interests of public safety to take such a course of action. The Authority will only lift a suspension of a licence on receipt of written confirmation from a GP or consultant that the driver meets the Group 2 medical standard.

8. Enforcement and Discipline

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Please note: This chapter provides an overview of enforcement and disciplinary action. It is not intended to be an exhaustive list. **It does not constitute legal advice.**

1. Enforcement & Discipline - The Authority's Officers and Regulation & Review Committee

Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instill confidence in the travelling public who wish to use the service.

Enforcement of hackney carriage and private hire matters is undertaken by the Authority. The police may also take action in certain circumstances.

Officers of the Authority (usually Licensing Officers) can be authorised by the Authority to undertake enforcement work. The Director of Environment, Housing & Leisure may authorise such Officers. In undertaking such work the Officers will abide by the Authority's Enforcement Policy. Enforcement work includes investigating complaints made about drivers, vehicles and operators in addition to matters observed by Officers e.g. vehicle defects. The Authority can consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.

The Director of Environment, Housing & Leisure may take appropriate disciplinary action against licensees in accordance with this policy. The Authority's Regulation & Review Committee may determine the appropriate disciplinary action (if any) to take against licensees referred to it by the Director of Environment, Housing & Leisure.

2. **Enforcement/Disciplinary Options**

There are various options to take depending upon the circumstances including:

- take no action
- take informal action
- use statutory and other notices/requests
- suspend a licence (with or without immediate effect)
- revoke a licence (with or without immediate effect)
- refuse to renew a licence
- use formal cautions
- prosecute
- obtain an injunction.

The Director of Environment, Housing & Leisure may refuse to grant or renew licences and may revoke or suspend licences, with or without immediate effect.

3. **Informal Action**

Informal action to secure compliance with the legislation and policy includes offering advice, verbal and written warnings and requests for action.

Informal action may be appropriate where:

- the act or omission is not serious enough to warrant more formal action
- from the individual licensee's history it can be reasonably expected that informal action will achieve compliance
- the consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

Repeated incidents of licence infringements, complaints etc. are likely to lead to action being taken against the licensee by the Director of Environment, Housing & Leisure or a referral to the Regulation & Review Committee.

4. **Vehicle Defect Rectification Scheme (VDRS)**

In situations where non-compliance with the conditions of vehicle licence or contravention of the legislation or byelaws is noted Officers may issue a vehicle defect rectification notice to the proprietor. Such notices are appropriate where the immediate suspension of the vehicle licence is not required. The notice will require the proprietor to remedy the defect and present the vehicle for inspection by Officers within 5 working days at the Licensing Office or a mutually agreed location. If a proprietor is aggrieved at the issue of a VDRS notice, then they may request a review by Officers.

If the defect has been remedied, then usually no further action will be taken. If the defect is not remedied or the vehicle is not presented for inspection the vehicle licence may be suspended (section 60 (LG(MP) Act 1976) and/or the proprietor may be prosecuted (section 50 & section 73 LG(MP) Act 1976). A proprietor may appeal against a section 60 vehicle suspension during which time the vehicle can continue to be used.

5. **Section 68 Notices – Suspension of Vehicle Licence**

An Officer authorised by the Authority (or Police Officer) has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle (or taximeter affixed to such a vehicle) licensed by the Authority to ascertain its fitness. If s/he is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter s/he may by a written notice require the proprietor to make the vehicle or taximeter available for further inspection and testing at a reasonable time and place specified in the notice. The Officer may suspend the vehicle licence until such time as they are satisfied as to fitness/accuracy using section 68 of the Local Government (Miscellaneous Provisions) Act 1976. Suspension under section 68 takes immediate effect. There is no right of appeal against such a suspension. Therefore, this action will only be taken when an Officer has reasonable grounds to suspect that the condition of the vehicle/taximeter poses an immediate risk to passengers and/or other road users.

If the Officer is not satisfied of the fitness/accuracy of the vehicle/meter within 2 months the vehicle licence will be revoked. Such matters do not need to be referred to Regulation and Review Committee by the Director of Environment, Housing and Leisure. The proprietor will be given written notice of the revocation within 14 days. The proprietor may appeal against the revocation of the licence to the Magistrates' Court or alternatively, or in addition to, the proprietor may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

6. **Suspend, Revoke or Refuse to Renew a Licence**

7. **Vehicle Licences – Section 60 LG(MP) Act 1976**

The Authority may suspend or revoke or refuse to renew a vehicle licence (private hire or hackney carriage) on any of the following grounds:

- a. that the vehicle is unfit for use
- b. the operator or driver has committed any offence under or has not complied with the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976 or
- c. any other reasonable cause.

Where the Authority suspends, revokes or refuses to renew a vehicle licence under section 60 LG(MP) Act 1976 it shall give the proprietor written notice of the grounds for the decision within fourteen days. The proprietor may appeal to a Magistrates' Court. Alternatively, or in addition, where the decision was made by the Director of Environment, Housing & Leisure the proprietor may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

8. Driver Licences - Section 61 LG(MP) Act 1976

The Authority may suspend or revoke or refuse to renew a driver licence (hackney carriage, private hire or dual hackney carriage/private hire) on any of the following grounds:

- a. that since the grant of the licence the licensee has been convicted of an offence involving dishonesty, indecency or violence or
- b. that since the grant of the licence the licensee has been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976
- c. in some cases, if since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty or
- d. any other reasonable cause.

Where the Authority suspends, revokes or refuses to renew a driver licence under section 61 LG(MP) Act 1976 it shall give the driver written notice of the grounds for the decision within 14 days. The driver must on demand return to the Authority the driver's badges. The driver may appeal to a Magistrates' Court. Alternatively, or in addition, where the decision was made by the Director of Environment, Housing and Leisure, the driver may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

9. Operator Licences - Section 62 LG(MP) Act 1976

The Authority may suspend or revoke or refuse to renew an operator's licence on any of the following grounds:

- a. any offence under or non-compliance with Part II of the Local Government (Miscellaneous Provisions) Act 1976
- b. any conduct on the part of the operator which appears to render him/her unfit to hold an operator's licence
- c. any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted
- d. in some cases, if since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty or
- e. any other reasonable cause.

Where the Authority suspends, revokes or refuses to renew an operator licence under section 62 LG (MP) Act 1976 it shall give the operator written notice of the grounds for the decision within 14 days. The operator may appeal to a Magistrates' Court. Alternatively, or in addition, where the decision was made by the Director of Environment, Housing & Leisure the operator may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

10. **Stay of Action Pending Outcome of Court Appeal**

Section 77(2) LG(MP) Act 1976 stays any action against a licence pending the outcome of an appeal to the Court. This means that if a driver, operator or proprietor appeals against a decision to refuse to renew, suspend or revoke a licence, the licence is deemed to remain in force until the appeal has been disposed of or withdrawn.

The licensee has 21 days from notification of the decision to lodge an appeal with the Court. The licensee can continue to use the licence during that period and once an appeal is lodged, can continue to use it until the appeal has been dealt with. If the Magistrates' Court dismisses the appeal the licensee has 21 days within which to lodge an appeal in the Crown Court and again, can continue to use the licence until the appeal is determined. If no appeal is lodged the driver must cease driving at the end of this period.

The Authority may decide that a suspension or revocation should take immediate effect where it considers it is in the interests of public safety to do so. In such cases the notice is issued to the driver and will include a statement that it is an immediate suspension/revocation and an explanation why. The suspension or revocation takes effect when the notice is received by the driver.

None of the above provisions apply to the suspension of a vehicle licence under section 68 LG(MP) Act 1976. Where the suspension or revocation of a driver's licence under section 61 LG(MP) Act 1976 applies with immediate effect the driver cannot drive a hackney carriage or private hire vehicle pending any appeal made to the Regulation and Review Committee or to the Magistrates' Court.

Where a licensee's court appeal is unsuccessful the court may order them to pay the Authority's costs.

11. **Requests for Insurance**

In addition to spot checks, the Authority's Officers have a regular programme whereby requests to produce insurance documents are sent to a random selection of proprietors for the production of vehicle insurance. If insurance is not produced the vehicle licence may be suspended and the proprietor may be prosecuted under section 50(5) LG(MP) Act 1976.

In addition, anyone using an uninsured vehicle may be prosecuted under section 143 Road Traffic Act 1988 (or any successor legislation).

12. **Cautions**

A caution may be used as an alternative to a prosecution in appropriate circumstances, where the criteria for prosecution are satisfied but an offence is of a less serious nature. The Authority will have regard to all relevant guidance including the Authority's Enforcement Policy. It is necessary for the offence to be admitted prior to administering a caution.

A caution may be used to:

- deal quickly and simply with less serious offences
- divert less serious offences away from the Courts
- reduce the chances of repeat offences.

13. **Prosecution**

In certain cases the Authority will prosecute. In all cases the evidential and public interest test contained within the Code for Crown Prosecutors must be satisfied and regard will be given to the Authority's Enforcement Policy.

In addition to prosecution, disciplinary action (e.g. warning, suspension, revocation, refusal to renew) may be taken against the licence holder.

The current standard fines for summary offences in the Magistrates' Court are as follows:

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - Unlimited

9. Regulation & Review Committee

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1. Introduction

The Authority's Regulation and Review Committee ("the Committee") exercises the Authority's functions in relation to the individual licensing of hackney carriage vehicles, hackney carriage drivers, private hire vehicles, private hire operators and private hire drivers under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation following referral to it by the Director of Environment, Housing and Leisure. All Members who have been appointed to this Committee receive on-going training from Authority Officers.

The Committee meets on a regular basis to discuss and determine specific taxi/private hire licensing issues. The schedule of meetings is available at www.northtyneside.gov.uk.

When considering any matter, the Regulation & Review Committee will have regard to this Policy and the Statutory Taxi and Private Hire Vehicle Standards.

A Committee will meet to determine the following:

1. Appeals against decisions of the Director of Environment, Housing & Leisure in relation to the grant, refusal, revocation and suspension of all licences.
2. Disciplinary action to take (if any) against licensees referred to it by the Director of Environment, Housing and Leisure; and
3. Referred matters - any licensing application or other matter concerning individual licensees referred to it by the Director of Environment, Housing and Leisure.

2. Decision making

Decision making in relation to licensing is an onerous responsibility and must be exercised in a way that protects the public. The Authority is aware that in respect of an application for an initial grant of a licence, it is for the applicant to satisfy the Authority on the balance of probabilities that he/she is a fit and proper person to be granted a licence and thus is someone who can be trusted to convey passengers safely.

Once a person is licensed, they shall be presumed to remain a fit and proper person to be licensed, unless he/she is considered to no longer be a fit and proper person to hold a licence as a result of a conviction, fixed penalty caution, community resolution, complaint or other relevant non-conviction information.

When the Committee considers such matters concerning an applicant/licensee it is operating in an administrative capacity and the rules of natural justice must be observed, and the applicant/licensee has the right to a fair hearing. The licensee/applicant must be treated fairly and be seen to be treated fairly. The Committee will be impartial, unbiased and will act in good faith.

The Committee is required to make judgements based on the evidence submitted to it. It is not the Members' role to sit as advocates for either the Director of Environment, Housing and Leisure, the Police or the licensee/applicant but to weigh the merits of the case as presented to it, ensuring that the proper considerations are taken into account and irrelevant factors are disregarded, thereby reaching a balanced decision. The Committee must also state the reasons for its decisions.

Only Committee Members who have heard the entire application, appeal or referred matter are able to take part in the decision making process.

Committee Members should not participate in the hearing of a matter if there could be the appearance of bias or apparent bias. This can arise where a Member's outside connections make it appear that there is a real danger of actual bias or apparent bias or a member has an interest under the Authority's Code of Conduct that they must declare. Where a Member has a registerable or non-registerable interest in relation to a matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice a Member's judgement of the public interest and either the matter will affect the financial position of a Member or a member of their family or employer or the matter concerns a request for a permission, licence, consent or registration of themselves or a family member or employer, the Member must withdraw from the meeting room.

The duty of a Member to consider whether or not to participate in a meeting is set out in Part 4 – Non-Participation in Authority Business - of the Code of Conduct for Members which forms part of the Authority's Constitution.

3. Appeals

When considering an appeal against a decision of the Director of Environment, Housing and Leisure in relation to the grant, refusal, revocation or suspension of a licence the Committee may:

1. Allow the appeal in whole or in part

For example, if an appeal concerns the refusal of a licence, the Sub-Committee may determine that the licence should be granted but may stipulate additional conditions that must be attached to the licence and/or issue a strong warning as to the licensee's future conduct.

2. Dismiss the appeal.

4. Disciplinary or Referred Matters

When considering a disciplinary or a referred matter e.g. an application for a licence, the Committee will have regard to the appropriate section of the Policy.

Appropriate disciplinary action can take a number of forms, for example: -

1. Revocation of a licence
2. Refusal to renew a licence
3. Suspension of a licence
4. A warning letter expressing the Authority's dissatisfaction with the licensee's behaviour, whilst also advising that future conduct incompatible with that expected of a licensee could lead to a suspension, refusal to renew or revocation of their licence.

Additional conditions if considered reasonably necessary may be attached to a licence when it is renewed (NB. conditions cannot be attached to a hackney carriage driver's licence).

The action to be taken in any particular case will depend on the seriousness of the conduct/conviction/medical condition concerned.

5. Regulation & Review Committee – Appeals/Disciplinary/Referred Matters - Procedure Note

The Regulation and Review Committee hearing aims to ensure that the Environment, Housing and Leisure Service and the licensee/applicant have the fullest opportunity to present all of the information they wish to the Committee. The Committee is required to give full and fair consideration to the cases presented by the Officers and the licensee/applicant and must reach a decision based on all of the relevant information presented to it at the hearing. To achieve this, the following procedure is adopted.

6. Before the Hearing

Decisions of the Director of Environment, Housing and Leisure in relation to the grant, refusal, revocation or suspension of licences are provided in writing and will enclose an appeal form as appropriate. Appeal forms can also be obtained by contacting the Licensing Office or Democratic Services of the Authority. An appeal must be lodged within 21 days of notification of the decision. Upon receiving notification of an appeal to Committee, the Director of Environment, Housing and Leisure will submit a report to the Committee.

If a licensee/applicant wishes to appeal directly to a Court they should approach the Court and/or seek independent legal advice in relation to the correct forms and procedures. Court documentation should be served upon the Director of Law and Governance, The Quadrant, Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY.

Where the Director of Environment, Housing and Leisure refers a matter to the Regulation & Review Committee for determination he/she shall inform the licensee/applicant of this and will submit a report to the Committee.

A copy of the report to Committee and the procedure to be followed at the hearing is supplied to the licensee/applicant by Democratic Services. Copies of this Policy are available on the internet or upon request from the Licensing Office.

Licensees/applicants are strongly advised to read the report and this Policy when preparing for the Committee hearing.

The licensee/applicant shall be given notice in writing at least seven days in advance of the time and place of the hearing and of their right to be accompanied by a friend, family member or other person, including a solicitor, and shall be allowed to call witnesses.

The licensee/applicant shall also be given the opportunity to submit a written statement of his/her case or other supporting documents prior to the hearing. Documentation should be provided to Democratic Services of the Authority in advance of the hearing, if it is not, or if the Committee has not had sufficient time to consider the documentation the Committee may refuse to accept the documentation or may defer the matter to be determined to a later date to afford the parties an opportunity to consider the documentation.

7. Absence of the Licensee/Applicant

The meeting may proceed in the absence of the Licensee/Applicant if they have informed the Licensing Authority or the Democratic Services Officer that they do not wish to attend or be represented at the hearing. If the Licensee/Applicant would like the meeting to be adjourned to enable them to attend then they must make this clear and provide reasons for the request.

If a licensee/applicant fails to attend or be represented at a meeting without notifying the Authority or Democratic Services Officer, the Committee may adjourn the hearing to a specific date if it considers it to be appropriate to do so. Alternatively, it may proceed with the meeting in their absence. In the interests of efficiency, meetings will generally proceed notwithstanding the absence of the Applicant if the Committee is satisfied that the applicant/licensee is aware of the hearing.

Where the Committee decides to proceed in the absence of the licensee/applicant the Committee will consider any information the licensee/applicant has supplied along with the report from the Director of Environment, Housing and Leisure.

If, a decision is made to adjourn a hearing the licensee/applicant will be advised of the new date, time and venue.

8. At the Hearing

Members of the Committee may ask questions at all stages.

The Director of Environment, Housing and Leisure or his representative shall present a report in the presence of the licensee/applicant and his/her representative and may call witnesses.

The licensee/applicant and/or his/her representative shall have the opportunity to ask questions about the information provided by the Director of Environment, Housing and Leisure or his representative and any witnesses called.

The licensee/applicant and/or his/her representative shall then put his/her case and shall call such witnesses as he/she wishes.

The Regulation and Review Committee and the Director of Environment, Housing and Leisure or his representative shall have the opportunity to ask questions of the licensee/applicant and/or his/her representative and any witnesses called by or on behalf of the licensee/applicant.

The Director of Environment, Housing and Leisure or his/her representative and the licensee/applicant and his/her representative shall have the opportunity to sum up their case if they so wish. If all parties opt to sum up, the licensee/applicant or his/her representative may speak last.

The licensee/applicant and his/her representative and witnesses and the Director of Environment, Housing and Leisure or his representative and witnesses shall withdraw from the meeting. Officers from Law and Governance will remain in the meeting to provide procedural and legal advice

The Regulation and Review Committee shall deliberate in private, only recalling the licensee/applicant or his/her representative and the Director of Environment, Housing and Leisure or his representative to clear points of uncertainty. If this occurs all parties will be invited back into the hearing together. If the Committee has no additional queries the licensee/applicant and the Director of Environment, Housing and Leisure will be notified by a Democratic Services Officer and they will not be required to return to the meeting.

The licensee/applicant will be notified of the Regulation and Review Committee's decision and the reasons for it in writing, usually within five working days. Where a licence has been suspended, revoked or a renewal has been refused written notice must be given within 14 days.

9. Appeal to the Court

There is a statutory right of appeal to the Magistrates' Court in relation to:

- a refusal to grant a private hire or hackney carriage driver licence;
- any conditions attached to a private hire driver licence;
- a decision to suspend, revoke or refuse to renew a private hire or hackney carriage driver licence;
- a refusal to grant a private hire vehicle licence or against any conditions specified in the licence;
- a refusal to grant an operator's licence or any conditions attached to the grant of an operator's licence;
- a decision to suspend, revoke or refuse to renew an operator's licence.
- a decision to refuse to renew a hackney carriage proprietor's licence
- any conditions attached to a hackney carriage proprietor's licence

A further appeal can be made against the decision of the Magistrates' Court to the Crown Court.

An appeal against a refusal to grant a hackney carriage vehicle/proprietors licence lies straight to the Crown Court.

Any appeal must be lodged with the appropriate court 21 days of receipt of the decision. A court fee may be levied. Costs may be awarded by the court against an unsuccessful applicant or a licensee or may in some circumstances be awarded against the Authority. Any person considering an appeal may wish to take independent legal advice with regard to the merits of an appeal.

Usually, any action against the licence is stayed pending the outcome of a Court appeal (section 77(2) LG(MP) Act 1976). However, in cases where the public interest requires that a suspension or revocation of a driver licence should take immediate effect a decision can be made that section 77(2) shall not apply. In such cases the driver must be notified in writing, with an explanation as to why the action has been taken.

Where a decision made by the Licensing Authority is appealed, the Authority will normally defend the decision and seek its costs of doing so in full from the appellant if the appeal is dismissed.

Decision making may also be challenged by judicial review in the High Court. It is recommended that independent legal advice should be sought if such a challenge is being considered.

10. WHO IS WHO?

The Licensee or Applicant

The Licensee or Applicant (accompanied by a friend or representative if so wished) is invited to attend and make representations to the Committee.

Officers of Environment, Housing and Leisure

Officers representing the Director of Environment, Housing & Leisure will submit information to the Committee to enable it to consider whether and what action should be taken.

On occasions a representative from the Police Authority, other body or a witness may attend to provide relevant information.

The Regulation and Review Committee

The Regulation and Review Committee is the body which has the delegated authority from the Authority to decide upon appeals, disciplinary and other matters referred to it by the Director of Environment, Housing & Leisure.

Officers of Law and Governance

Officers representing Law and Governance advise the Committee on the relevant law and procedures. They do not take part in the decision making process.

10. Hackney Carriage Stands

Contents

1. Appointed Stands
2. Creation of a Stand/Rank
3. Waiting on Stands
4. Byelaws

1. Appointed Stands

The purpose of hackney carriage stands (also known as hackney carriage ranks) is to provide the public with a set location where they can hire a licensed hackney carriage. The stand is the only situation where a hackney carriage may ply for hire in a stationary position and should be situated in locations where the public is most likely to need hackney carriages, for example adjacent to transport facilities, retail areas and places of employment, entertainment and leisure facilities. Stands should be sited so that passengers can board or alight from the vehicle safely.

The Authority is required to continually review the provision of hackney carriage stands in the Borough. In this respect Officers work closely with the North Tyneside Hackney Carriage Trade and oversee an on-going programme of improving facilities at existing stands with, for example, the installation of illuminated taxi-cubes, guard rails and shelters at stands, all funded from an available Local Authority budget.

There are currently 24 official hackney carriage stands in the Borough providing spaces for a total of 84 vehicles. A list of the stands and their designated names and times of operation are available on the Authority website at www.northtyneside.gov.uk.

Transport facilities in the Borough are well served with eight of the busiest metro stations having a hackney carriage stand.

2. Creation of a Stand/Rank

A new hackney carriage stand can be appointed under section 63 Local Government (Miscellaneous Provisions) Act 1976 or a taxi rank created by a Traffic Regulation Order using powers contained in the Road Traffic Regulation Act 1984. This allows new stands to be created on public highways or private land with the appropriate consent of the land owner and can be for continual or part-time use.

Prior to a new stand/rank being created or the maximum number of vehicles that can use a stand is varied a notice will be given to the Chief Officer of Police and a public notice published in a local newspaper.

New stands/ranks will not be sited where they may lead to obstructions.

Officers will monitor the use of stands in the Borough and it is expected that all stands are serviced.

3. Waiting on Stands/Ranks and Etiquette

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait in any stand for hackney carriages or a rank reserved for hackney carriages to park.

Drivers of hackney carriages may only wait in a stand/rank whilst plying for hire or waiting for a fare.

Drivers of hackney carriages who park in a stand/rank and leave their vehicle unattended commit an offence.

Drivers of hackney carriages are expected to turn their vehicles' engine off whilst waiting for a fare or to use their start stop technology if fitted.

4. Byelaws

The Authority has enacted a set of Byelaws regarding the operation and use of hackney carriages and their drivers. These include such matters as wearing of badge, driver conduct, plying for hire and use of the taxi stands/ranks. These will be reviewed as and when considered appropriate by the Authority.

11. Complaints Procedure

The Authority recognises the high standards of the private hire and hackney carriage trade and expects all licensees to uphold these standards at all times. However, it is recognised that there may be occasions for transport users and other members of the trade to make complaints and as such a complaints procedure has been devised.

All complaints received will be investigated. Complainants will receive a written acknowledgement of their complaint within 2 working days advising the name of the Officer assigned to investigate the complaint.

Complainants may be asked to put their complaint in writing if the complaint is such that formal action may result.

The Authority recognises that some complaints can be frivolous or vexatious. These complaints will not be taken further.

Licensees are expected to assist Officers investigations and make themselves available for interview at a mutually convenient time and place.

At the end of the investigation all parties concerned will receive confirmation of the result and action to be taken.

If any party is not satisfied as to the outcome the Authority's corporate complaints procedure is in place to deal with these issues.

Appendix A **Hackney Carriage and Private Hire Vehicle specifications**

All licensed vehicles shall comply in all respects with the requirements set out below as appropriate for the type of vehicle. This is in addition to all requirements of the Road Traffic legislation, which relates to all motor vehicles.

All vehicles must comply with the requirements of Section A. Private Hire vehicles must comply with the requirements of Section B and Hackney Carriages must comply with the requirements of Section C.

If you are making a new application for a Hackney Carriage proprietors licence or are replacing a hackney carriage first licensed after July 1992, the vehicle must be wheelchair accessible and must also comply with the requirements of Section D.

All vehicles must have the appropriate type approval.

The following vehicle specification must be maintained throughout the licence period unless changes have prior approval by the Authority.

Section A - General specification for all vehicles

GENERAL CONSTRUCTION

1. The vehicle shall comply fully with all relevant statutory provisions relating to the construction of motor vehicles and including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986 (or any successor legislation).
2. Any modification to the vehicle (e.g. conversion to wheelchair accessible, alteration of the original seat configuration or any other 'adaptation') must be approved by the Authority and the appropriate certificate produced.
3. The vehicle shall be right hand drive with a fixed head type body.
4. The vehicle shall be capable of carrying in reasonable comfort at least four passengers.
5. The vehicle shall be M1 category. In the case of post registration conversions Individual Vehicle Approval is required.
6. The vehicle shall have a minimum unladen height of 1.325 metres (53").

PASSENGER COMFORT

7. Every passenger seat in the vehicle must meet the following minimum dimensions:
 - Individual seat width – 41cm (16")
 - Bench seat width (i.e. rear seat of a saloon vehicle) – 124.5cm (49") Width between door handles – 124.5cm (49")
 - Width between rear doors – 132cm (52")
 - Seat squab height measured from vehicle floor - 30cm (12")
 - Seat squab depth – 45cm (18")
 - Headroom measured from centre of seat to underside of roof – 87.5cm (35")
 - Legroom measured from seat back diagonally to vehicle floor – 94cm (37")
 - Unobstructed space in front of seat measured from seat back – 63.5cm (25")

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the measurements are below the above dimensions.

8. There shall be no obstructions or features in the vehicle (e.g. prominent transmission tunnels, door furniture, vehicle controls, etc) which in the opinion of the Authority materially interferes with the comfort of any passenger.

9. The vehicle shall have an adequate heating and ventilation system for the comfort of all passengers.
10. The vehicle shall be equipped with either:
 - (a) A spare wheel of full or space save design above the legal tread requirement and the tools to change a wheel, or
 - (b) An emergency puncture repair kit (with compressor/inflation pack) or
 - (c) Run flat tyres or
 - (d) Provide evidence of a contract with a mobile tyre replacement specialist.

In the event of a space – saver tyre, run flat tyres (when punctured) or puncture repair kit being used, it is only to complete a fare and must comply and be maintained in accordance with the manufactures' recommendations. Any such defective wheel should be replaced before taking another fare to ensure passenger safety.

PASSENGER SAFETY

11. Glass shall have a minimum light transmittance of 75% for the front windscreen, 70% for the front side windows and 34% for all other vehicle window glass. If tinted windows are fitted as standard at the time of manufacture of the vehicle there will be no minimum light transmission to the windows to the rear of the B pillar.

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the light transmittance of the windows is below 34% where tint has not been fitted as standard. This discretion however does not apply to the front windscreen or the front side windows.

12. The vehicle shall have at least 4 doors and open sufficiently wide so as to allow safe and easy access and egress. Each passenger, other than a front seated passenger, shall have access to at least two doors.
13. Every passenger seat shall be either forward or rear facing and shall be fitted with an approved (lap & diagonal) seat belt.

LUGGAGE CAPACITY

14. The vehicle shall have capacity to convey an appropriate quantity of luggage.

Section B - Specification for Private Hire Vehicles

15. The vehicle must not be black in colour or a colour which closely resembles black in the opinion of the Licensing Officer.
16. If the Private Hire vehicle is fitted with a meter, it must be properly tested and sealed.
17. Private Hire vehicles must not have a roof sign.

Section C - Specification for Hackney Carriages

18. Hackney Carriage vehicles must be black in colour.
19. Hackney Carriage vehicles must have fitted on the roof, an internally illuminated TAXI top sign meeting a specification in relation to size and colour approved by the Authority and relevant to the type of vehicle.
20. Hackney Carriage vehicles must be fitted with a taximeter, properly tested and sealed, and calibrated to enable testing in accordance with the Authority's current Hackney Carriage Fare Table.

Section D - Specification for New and Replacement Wheelchair Accessible Hackney Carriages Only

GENERAL CONSTRUCTION

21. The vehicle must comply fully with the requirements of the Road Vehicles (Construction and Use) Regulations 1986 (or any successor legislation) as well as all general policies and specifications of the Authority which relate to hackney carriage vehicles.
22. The vehicle must comply fully with Sections A and C of the preceding 'General Specification for all Hackney Carriages and Private Hire Vehicles'.

PASSENGER SAFETY AND COMFORT

23. The vehicle must be capable of accommodating one or more wheelchairs in either a forward or rear facing position allowing adequate space to ensure the safety and comfort of the wheelchair user, and without interfering with the safety and comfort of any other passengers.
24. The design of the vehicle must allow safe access and egress of passengers including elderly and disabled passengers.
25. Wheelchair access to the vehicle must be from the nearside or rear of the vehicle. The door and doorway must be constructed as to permit an unrestricted opening across the doorway of at least 75cm.
26. The clear height of the doorway must not be less than 1.2 metres.
27. Grab handles must be placed at one or more passenger door entrances as appropriate, to assist the elderly and disabled.
28. The vertical distance between the highest part of the floor and the roof in the wheelchair passenger area must be no less than 1.3 metres.
29. Approved anchorages must be provided for the wheelchair and chair bound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for the wheelchair and occupant must be independent of each other.
30. Suitable means of wheelchair access must be fitted to the vehicle. Ramps must be of suitable design to ensure that they do not slip or tilt when in use and they provide a suitable gradient when in use. Tail-lifts must be of an approved type.
31. If any of the seating within the vehicle has to be removed or adjusted in any way to accommodate one or more wheelchairs, the following conditions will also apply:
 - The removal/adjustment must be able to be carried out quickly and easily so that in the opinion of the Authority there is minimal inconvenience caused to any hirer of the vehicle by the 'conversion'
 - Where one or more seats require removal to accommodate one or more wheelchairs there must be adequate space on the vehicle for the secure storage of any removed seats.
 - Where one or more seats are either removed or they become unusable when the vehicle has been 'converted' for wheelchair use there must be at least one further useable passenger seat.

Appendix B

Conditions attached to a Hackney Carriage Proprietors Licence and Private Hire Vehicle Proprietors Licence

The following conditions are attached to the grant/renewal of the following vehicle licence:

Plate Number:

Registration Number:

Name of licensee(s) including part proprietors:

Failure to comply with the conditions may lead to action being taken against your licence.

STANDARD CONDITIONS

1. Maintenance of Vehicle

The vehicle, all of its fittings and any attached equipment shall at all times when the vehicle is in use or available for hire, be kept in a clean, safe, tidy and efficient state, and must also comply with all relevant statutory provisions including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986.

2. Alteration of Vehicle

No material alteration or change to the vehicle, its fittings or any attached equipment shall be made without the prior approval of the Authority.

3. Identification Plate

The licence plate supplied by the Authority and identifying the vehicle as a hackney carriage/private hire vehicle shall be securely fixed externally on or about the off side area of the rear bodywork or bumper of the vehicle in a conspicuous position and in such a manner as to be easily removed if necessary by an authorised Officer of the Authority or a constable. The plate must be maintained in a satisfactory condition and be legible.

4. Interior Identification Marking

A sign supplied by the Authority indicating the licence number and the number of passengers the vehicle is licensed to carry, shall be displayed inside the vehicle in a prominent position on the inside of the windscreen so as to be clearly visible to passengers. The sign must be maintained in a satisfactory condition and be legible.

5. Door Decals

There shall be attached centrally to each front door of the vehicle the appropriate hackney carriage or private hire vehicle decals supplied by the Authority. The decals must be securely affixed or in the case of Hackney Carriage Vehicle permanently affixed to the vehicle and these must be maintained in a satisfactory condition and be legible.

6. Safety Equipment

Where a ramp or ramps are used, they must be fitted/carried safely in the vehicle at all times. The ramps must be identified with the vehicle registration number.

7. Signs, Notices, Etc

No signs, notices, advertisements, video or digital display etc or other markings shall be displayed on, in or from the vehicle subject to the following exceptions:

- Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence
- Advertising on the rear doors, rear wings and boot area of the vehicle (of two-dimensional insignia type) approved by the Authority
- Advertising along the top 8 cm strip of the windscreen of the vehicle provided that it is not illuminated and it bears only the name and/or telephone number in block letters of the firm operating the vehicle.

Signs, notices, advertisements, video or digital display etc must not be of a content that the Licensing Officer deems to be offensive or abusive.

A sign must be affixed to the inside of the vehicle indicating that smoking is prohibited in the vehicle.

8. Change of Address

The proprietor shall notify the Authority in writing within seven days of any change of address during the period of the licence.

9. Convictions, Cautions, Fixed Penalty, Community Resolutions or On-going Investigations

The proprietor shall notify the Authority in writing within seven days if he/she is convicted of **any** offence or if he has been charged with an offence. He/she should **also** inform the Authority in writing within seven days of having received a caution, fixed penalty or community resolution and if released by the police on bail or under investigation.

10. Deposit of Drivers Licence

If the proprietor permits or employs any other person to drive the vehicle as a hackney carriage/private hire vehicle, the proprietor shall retain the person's hackney carriage/private hire drivers licence until such time as the driver ceases to be permitted or employed to drive the vehicle.

11. Transfer of Interest

The proprietor shall notify the Authority in writing, giving the name and the address of the new proprietor, within 14 days if he transfers his interest in the vehicle to another person.

12. Accident Notification

The proprietor shall notify the Authority as soon as is practicable, or in any case within 72 hours of any accident which results in damage to the vehicle.

13. Additional Charges

The proprietor shall pay the Authority any reasonable additional charges to be determined by the Authority for:
A) the replacement of any lost, damaged or stolen plate, decal or sign provided by the Authority (and which is required to be attached or displayed on or in the vehicle as a condition of this licence);
B) any vehicle test appointment for which the proprietor fails to present the vehicle for testing or which is cancelled by the proprietor without giving at least 48 hours notice to the Authority.

14. Insurance

All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle.

If a vehicle is off the road and uninsured the proprietor must advise the Licensing Section in writing immediately or in any event within 72 hours.

15. Hackney Carriage and Private Hire Licensing Policy

All proprietors must read the Authority's Hackney Carriage and Private Hire Licensing Policy and act in accordance with the Policy as it applies to them

Additional Conditions/departure from standard conditions

As required

Stamped/dated

Appendix C

Vehicle Testing Arrangements – Components to be Inspected

Body / Vehicle Structure

Free from excessive corrosion or damage in specific areas. No sharp edges likely to cause injury.

Speedometer/Odometer

Condition and operation.

Fuel System

No leaks. Security and condition of pipes/hoses. Fuel cap fastens and seals securely.

Exhaust Emissions

Vehicle meets the requirements for exhaust emissions, dependent on the age and fuel type of the vehicle.

Exhaust System

Secure. Complete. Catalyst missing where one was fitted as standard. Without serious leaks and is not too noisy.

Seat Belts

All the seat belts fitted are checked for type, condition, operation and security. All mandatory seat belts must be in place. Check of the Malfunction Indicator Lamp (MIL) for air bags and seat belt pre tensioners and load limiters.

Seats

Driver's seat for adjustment. All seats for security and seat backs can be secured in the upright position.

Doors

Latch securely in closed position. Front doors should open from the inside and outside the vehicle. Rear doors should open from outside the vehicle. Hinges and catches for security and condition.

Mirrors

Minimum number required, condition and security. Indirect vision devices.

Load Security

Boot or tailgate can be secured in the closed position.

Brakes

Condition including inappropriate repairs or modifications, operation and performance (efficiency test). Note the removal of the road wheels and trims are not part of the test. Anti-lock Braking System (ABS) and Electronic Stability Control (ESC) where fitted. Check of the dashboard Malfunction Indicator Lamp (MIL) for ABS, ESC, electronic park brake and brake fluid warning.

Tyres and Wheels (including spare)

Condition, security, tyre size/type and tread depth. Note: vehicles first used on or after 1st January 2012 – check of the MIL for Tyre Pressure Monitoring System (TPMS).

Registration Plates

Condition, security, colour, characters correctly formed and spaced.

Lights

Condition, operation including High Intensity Discharge (HID) and Light Emitting Diode (LED) headlamps for cleaning, self-levelling and security. Headlamp aim. Main beam warning light.

Bonnet

Securely latches in the closed position.

Wipers / Washers

Operate to give the driver a clear view ahead.

Windscreen

Condition and driver's view of the road.

Horn

Correct operation and of suitable type.

Steering and Suspension

Condition, steering oil level, operation, a check for inappropriate repairs or modification including corrosion to power steering pipes or hoses. Operation of steering lock mechanism. Check of MIL for electronic power steering and steering lock.

Towbars (if fitted)

Security/condition/inappropriate repairs or modification. Correct operation of 13 pin electrical socket.

Vehicle Identification Number

Present on vehicles first used on or after 1st August 1980. A single VIN is displayed except on multistage build vehicles (e.g. van conversion, BMW/ Alpina).

Electrical

Visible electrical wiring and battery

Vehicle Interior

Clean.

Vehicle Exterior

Uniform colour.

Glass

Windscreen - minimum 75% light transmittance.

Front side windows - minimum 70% light transmittance

If tinted windows are fitted as standard there will be no minimum light transmission to the rear of the B pillar.

All other windows – minimum 34% light transmittance

Meter (if fitted)

Must be of an approved type and sealed.

Spare Wheel

The vehicle shall be equipped with either:

- (a) A spare wheel of full or space save design above the legal tread requirement and the tools to change a wheel,
or
- (b) An emergency puncture repair kit (to include compressor/inflator) or
- (c) Run flat tyres or
- (d) Provide evidence of a contract with a mobile tyre replacement specialist.

Wheel-brace & Jack (only if spare wheel present)

Present. Correct operation.

Luggage Accommodation

Compartment clean, empty.

Seats & Interior Trim

Clean, free from rips or tears.

Floor Covering

Clean. No obstructions.

Licence Plate (Annual and Interim Tests Only)

Present. Securely attached to vehicle. Correct location on vehicle. In satisfactory condition and information legible

NTC Windscreen Disc

Present. Securely attached to windscreen. In satisfactory condition, information legible.

NTC Door Signs

Present. Fitted correctly. In satisfactory condition, information legible.

NTC Emergency/ Information Signs (Minibuses/PCV's)

Present. In satisfactory condition, information legible.

For Hire Sign (hackney carriage only)

Present. Works in conjunction with meter and roof-sign.

Roof Sign (Hackney carriages only)

Present. Correct type and size for type of vehicle. Correct colours. Lettering correct size.

Advertising - bodywork

Approved. Present only on rear doors & boot area of vehicle unless approved.

Advertising - glass

Approved. Present only on top edge of windscreen.

NTC Fare Table (hackney carriage only) (Dashboard/partition/Rear Windows)

Present. In satisfactory condition. Most recent issue.

Byelaws (hackney carriage only)

Present. Satisfactory condition and legible

Interior Door Locks (Purpose built hackney carriage only)

Work in conjunction with foot-brake.

Ramps (if present)

Present. Stored securely. Adequate locking device must be fitted to ensure the ramps do not slip or tilt when in use.

Wheelchair Anchorages (if applicable)

Must be of an approved type (chassis or floor linked and capable of withstanding approved dynamic or static tests).

Tail-Lifts (if present)

Must have valid LOLER Certificate. Tail lift must not prevent the rear door(s) from being opened and must be easily moved if the power supply fails.

Appendix D
Standard 'Exemption Notice' Conditions
Executive Hire Vehicles

General Conditions

1. The Proprietor shall notify the Authority immediately in writing if there is any material change in the nature of the use of the vehicle.
2. The Proprietor shall ensure that the private hire vehicle licence identification disc issued by the Authority is displayed within the nearside of the front windscreen at all times.
3. The 'Exemption Notice' issued by the Director of Environment, Housing & Leisure in respect of the licensed private hire vehicle shall be carried within the vehicle at all times, and presented for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
4. Other than the Authority's Licence Identification Disc; the proprietor shall not display in, on or from the vehicle any advertisement, sign, logo or insignia advertising the operating company or promoting the vehicles' status as a licensed private hire vehicle, without the prior written approval of the Director of Environment, Housing & Leisure.
5. The Private Hire Vehicle proprietors licence identification plate and decals issued by the Authority shall not be affixed to the vehicle, and shall not be displayed in, on or from the vehicle at any time.
6. The Private Hire Vehicle proprietors licence identification plate issued by the Authority shall be carried in the luggage compartment of the vehicle at all times and produced for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
7. No taximeter shall be displayed within the vehicle at any time.
8. No table of fares/tariff card shall be displayed in the vehicle at any time.
9. A tariff of charges shall be deposited with the Authority and shall be carried within the vehicle at all times.
10. The Proprietor shall not change the body colour(s) which were present when the vehicle was first licensed without the prior written consent of the Director of Environment, Housing & Leisure.
11. The Proprietor shall ensure that the driver of the vehicle does not wear the private hire drivers licence identification badge issued by the Authority or display that badge in, on or from the vehicle at any time.
12. The Proprietor shall ensure that the private hire drivers identification badge issued by the Authority shall be carried within the vehicle at all times and produced for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
13. The Proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or business suit when the vehicle is hired.
14. The Proprietor shall ensure that the hirer shall be afforded the facility to settle accounts and/or tender direct payment by credit card, debit card, cheque or cash.

Additional Conditions

Any executive hire vehicle wishing to take advantage of the exemption limiting the window tint (less than 34% light transmittance) should not be engaged in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years). The driver must not act as the accompanying adult. Further, the Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle with tinted windows will be supplied.

Appendix E

Private Hire Driver Licence Conditions of Licence

The following conditions are attached to the grant of the following driver licence:

Name of licensee:

Licence Number:

Failure to comply with the conditions may lead to action being taken against your licence.

1. Conduct of Driver

The Driver shall:-

1. Afford all reasonable assistance with passenger's luggage
2. At all times comply with the Authority dress code and behave in a civil and orderly manner
3. Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her
4. Not without the express consent of the hirer, drink or eat in the vehicle.
5. Not without express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle
6. Drivers are issued with two badges, one to be worn around the neck. At all times when acting in accordance with this licence a badge licensed to him/her must be displayed in such a position and manner as to be plainly and distinctly visible to passengers.

The Driver shall not smoke in the vehicle at any time, including when the vehicle is not available for hire.

2. Passengers

1. The driver shall not convey or permit to be conveyed in a private hire vehicle a greater number of persons than that prescribed in the licence for the vehicle.
2. The driver shall not allow there to be conveyed in the front of a private hire vehicle beside him/her:
 - (a) Any child below the age of three years, or
 - (b) more than one person.

3. Lost Property

If any identifiable property is left in a private hire vehicle by any person who may have been conveyed therein is found by or handed to the driver, he/her shall take it as soon as possible in any event within twenty four hours, if not sooner claimed by or on behalf of its owner to a convenient police station and leave it in the custody of the Officer on his/her giving a receipt for it.

4. Written Receipts

The driver shall if requested by the hirer of a private hire vehicle provide him/her with a written receipt for the fare paid.

5. Animals

The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle whilst the vehicle is hired and he/she shall ensure that any animal belonging to or in the custody of any passengers is conveyed in the rear of the vehicle.

This does not apply to a disabled person's guide, hearing or assistance dog which must be carried in a private hire vehicle or hackney carriage vehicle without any additional charge, unless the driver holds a Certificate of Exemption on medical grounds issued under the Equality Act 2010.

6. Prompt Attendance

The driver of a private hire vehicle shall, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operators or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at the appointed time and place, unless delayed or prevented by sufficient cause.

7. Deposit of Licence

If the driver is permitted or employed to drive a private hire vehicle of which the proprietor is someone, other than himself, he/she shall before commencing to drive that vehicle deposit this licence with that proprietor for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle.

8. Change of Address

The driver shall notify the Licensing Office in writing of his/her address during the period of the licence within seven days of such change taking place.

9. Medical Fitness

The driver must inform the Licensing Office immediately if he/she suffers from a medical condition or disability or a condition or disability previously notified worsens that may alter his/her ability to drive a vehicle.

A driver or prospective driver who receives medical treatment or medical consultation shall confirm with their medical attendant whether they are at that time fit to undertake the duties of a private hire vehicle driver. Where any medical attendant specifies that a driver or prospective driver should not drive for a determinate or indeterminate period that driver or prospective driver shall notify the Authority immediately in writing of such medical opinion.

The requirement will not apply to any temporary incapacity or treatment for the duration of which the driver or prospective driver does not intend to drive a private hire vehicle.

10. Convictions, Cautions, Fixed Penalty, Community Resolutions or On-going Investigations

The driver shall within seven days disclose to the Authority in writing details of **any** conviction (including all motoring offences), caution, fixed penalty or community resolution received during the period of the licence. The driver shall also notify the Authority in writing within seven days if he/she has been charged with an offence or has been released by the police on bail or under investigation.

11. People who have spent time overseas

Existing licensed drivers must notify the Authority in writing when they intend to leave the country for an extended period of 3 months or more. They must also notify the Authority on their return and complete a statutory declaration on the form provided by the Authority.

12. Return of Badges

The driver shall upon the expiry, revocation or suspension of this licence forthwith return to the Authority the driver's badges issued by the Licensing Office when granting this licence.

13. Taxi Meter

If a private hire vehicle is fitted with a taxi meter or other Authority approved device used to calculate the fare, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).

14. Fare to Be Demanded

The driver shall not demand from any hirer of a private hire vehicle, fare in excess of any previously agreed for that hiring between the hirer and operator, or if the vehicle is fitted with a taxi meter and there has been no previous agreement as to the fare, the fare shown on the face of the taxi meter.

15. No smoking Policy

Smoking in a smoke-free place is prohibited under the Health Act 2006 by both the driver and passengers.

In this context a 'smoke-free place' includes a licensed hackney carriage and private hire vehicle as well as a private hire operator's premises.

Smoking also includes the use of e-cigarettes.

16 Renewal of Licence

The driver must apply to renew a private hire driver's licence in the four weeks preceding the expiry date of the licence.

17. Wheelchair Accessible Vehicles

All drivers of wheelchair accessible vehicles must:

(i) Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.

(ii) Before any movement of the vehicle takes place ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.

(iii) Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers or to anyone else, in accordance with Regulation 100 of the (Construction and Use) Regulations 1986.

18. Responsibility Towards Authority Employees

Drivers are expected to be polite and courteous at all times and to comply with any reasonable request made by a Licensing or Civil Enforcement Officer or Testing Mechanic. Verbal or physical abuse will not be tolerated.

19. Subscription to the Disclosure and Barring Service (DBS) Update Service

All drivers will be required to subscribe to the DBS update service.

20. Hackney Carriage and Private Hire Licensing Policy

All drivers must read the Authority's Hackney Carriage and Private Hire Licensing Policy and act in accordance with the Policy as it applies to them.

Appendix F **Code of Good Conduct For Licensed Drivers**

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Authority has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

1. Responsibility to the Trade

Licensees shall endeavour to promote the image of the Hackney Carriage and Private hire trade by:

- (a) complying with this Code of Good Conduct;
- (b) complying with all the Conditions of their Licence and the Authority's Hackney Carriage and Private Hire Licensing Policy; Byelaws
- (c) behaving in a professional manner at all times.

2. Responsibility to Clients

Licensees shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking a pre-booked hiring;
- (d) assist, where necessary, passengers into and out of vehicles;
- (e) offer passengers reasonable assistance with luggage.

3. Responsibility to Residents

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- (a) only use the vehicle horn in accordance with the law;
- (b) keep the volume of radio/cassette/cd player and VHF/digital radios to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.

At hackney carriage stands and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- (a) stand in an orderly manner and proceed along the stand in order and promptly;
- (b) remain in the vehicle.

At private hire offices a licensee shall:

- (a) not allow their radio/cassette/cd players or VHF/digital radios to cause disturbance to residents of the neighbourhood;
- (b) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

4. General

Drivers shall:

- (a) pay attention to personal hygiene and dress in accordance with the Dress Code;
- (b) be polite, helpful and respectful to passengers;
- (c) drive with care and due consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;
- (d) obey all Traffic Regulation Orders and directions at all time;
- (e) not smoke in the vehicle at any time (this includes e-cigarettes);
- (f) not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive while having misused legal or illegal drugs;
- (h) fulfill their responsibility to ensure compliance with legislation regarding the length of working hours.

PLEASE NOTE: ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT. THE AUTHORITY WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE CONSUMED ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

Appendix G

Drivers Dress Code

The purpose of a driver's dress code is to seek a standard of dress that promotes a positive image of the hackney carriage and private hire trade in North Tyneside, to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

The dress code is not a condition of licence and will not be enforced as such, however the Licensing Authority encourages drivers to comply with the requirements.

Acceptable Standards of Dress

Tops

- Shirts, blouses, T-Shirts or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- Shirts or blouses may be worn with a tie or open necked.

Footwear

- Footwear for all drivers shall fit around the heel of the foot.

Unacceptable Standard of Dress

The following are deemed unacceptable:

- Clothing not kept in a clean condition, free from holes and rips.
- Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- Sportswear (e.g. football/rugby kits, track suits, beach wear etc).
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- Drivers not having either the top or bottom half of their bodies suitably clothed.

Appendix H

Private Hire Operators Licence Conditions of Licence

1. RECORDS

- (i) The records required to be kept by the operator under section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 must be kept in a suitable book, the pages of which are numbered consecutively, or other durable recording format and the operator shall enter or cause to be entered therein **before** the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him, including where a booking is sub-contracted (whether the vehicle that is used is licensed under section 48 of the 1976 Act, or is licensed as a hackney carriage under section 37 of the Town Police Clauses Act 1847):
- the name of the hirer/passenger;
 - The date and time of the hiring;
 - The agreed date and time of the pick-up
 - the pick-up point;
 - the destination;
 - the name or unique callsign of the driver allocated to the booking;
 - the driver's licence number;
 - the vehicle registration number of the vehicle;
 - the name of any individual that responded to the booking request;
 - the name of any individual that dispatched the vehicle
 - Remarks (including details of any booking sub-contracted to another private hire operator)
- (ii) The operator shall also keep records of the particulars of all vehicles operated or used by him (whether licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or under section 37 of the Town Police Clauses Act 1847, which particulars shall include details of the proprietors, registration numbers, licence number and drivers of such vehicles, together with any radio call sign used.
- (iv) The operator shall keep records of all desk clerks employed by him, including their name, date of birth and home address. A daily record must be kept of the time worked by each clerk.
- (v) The desk clerk shall sign the booking sheet at the start of each duty.
- (vi) All records kept by the operator shall be preserved for a period of not less than ONE year following the date of the last entry.
- (vii) The Operator must maintain and keep up to date a register of all staff who take bookings and/or dispatch vehicles to fulfil bookings.
- viii The Operator must have a clear policy that sets out the criteria to be applied when employing members of staff responsible for the booking and/or dispatch of vehicles who have previous convictions.
- ix) The Operator must maintain a register confirming that they have had sight of a Basic Disclosure and Barring Service check on all individuals employed as booking and dispatch staff and that this is compatible with their policy on employing those with previous convictions.
- x) The Operator must ensure that a Basic Disclosure and Barring Service check has been conducted on any individual added to the register of staff.
- xi) All records which are required to be kept under the conditions of licence must be made available upon request to an Authorised Officer of the Authority or a constable.
- xii) The Operator must not dispatch a driver who is a licensed Passenger Carrying Vehicle driver and use a Public Service Vehicle (such as a minibus) to fulfil a booking without the informed consent of the person making the booking. The Operator must be able to evidence that such consent was given by the passenger prior to the picking up of the passenger.

2. STANDARD OF SERVICE

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:

- a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- c) Ensure that any waiting area provided by the operator has adequate seating facilities.
- d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

3. COMPLAINTS

The operator shall notify the Authority in writing, within seven days, of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the operator has taken or proposes to take in respect thereof.

4. CHANGE OF ADDRESS

The operator shall notify the Authority in writing of any change of his/her address during the period of the licence within seven days of such change taking place.

5. CONVICTIONS, CAUTIONS, COMMUNITY RESOLUTION OR ON-GOING INVESTIGATIONS

The operator shall within seven days disclose to the Authority in writing details of any conviction, caution or community resolution imposed on him/her (or, if the operator is a Company, of any its Directors) during the period of the licence.

The operator shall within seven days disclose to the Authority in writing of any on-going police (or other authority) investigation of him (or, if the operator is a Company, of any its Directors).

6. OPERATORS LICENCE

Operators shall operate wholly from those premises specified in the licence and situated within the boundaries of the Borough of North Tyneside.

The Operator shall display the Operator's Licence issued by the Local Authority in a conspicuous position at the licensed premises.

7. SPECIAL CONDITIONS RELATING TO PORTACABINS

- (i) The operator will provide and maintain hot and cold running water and wash hand basin facilities, which will be permanently connected to the main sewage system.
- (ii) The operator will provide and maintain toilet facilities which are to be permanently connected to the main sewerage system.

8. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Operators should read the Authority's Hackney Carriage and Private Hire Licensing Policy and act in accordance with Policy as it applies to them.

9. RENEWAL of LICENCE

The Operator must apply to renew a licence in the four weeks preceding the expiry date of the licence.

Metropolitan Borough of North Tyneside

BYELAWS

Metropolitan Borough of North Tyneside Byelaws made under Section 68 of The Town Police Clauses Act 1847, and Section 171 of The Public Health Act 1875 by the Authority of the Borough of North Tyneside, with respect to hackney carriages in the Borough of North Tyneside dated 4th March 1977 (all previous versions of these repealed)

INTERPRETATION

1. Throughout these byelaws “the Authority” means the Authority of the Borough of North Tyneside and “the district” means the Borough of North Tyneside.

PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE CORRESPONDING WITH THE NUMBER OF ITS LICENCE SHALL BE DISPLAYED

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked inside of the carriage and on plates affixed to the outside of the carriage.
- (b) A proprietor or driver of a hackney carriage shall:-
- (i) Not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire
 - (ii) Not cause or permit the carriage to stand or ply for hire with any such painting marking or plate so defaced that any figure or material particular is illegible.

PROVISIONS REGULATING HOW HACKNEY CARRAIGES ARE TO BE FURNISHED OR PROVIDED

3. Every proprietor of a hackney carriage shall:-
- (a) provide sufficient means by which any person in the carriage may communicate with the driver
 - (b) cause any roof or covering to be kept water tight
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side
 - (d) cause the seats to be properly cushioned or covered
 - (e) cause the floor to be provided with a proper carpet mat or other suitable covering
 - (f) cause the fittings and furniture generally to be kept in a clean condition well maintained and in every way fit for public service
 - (g) provide means for securing luggage if the carriage is so constructed to carry luggage
 - (h) provide for an efficient fire extinguisher which shall be carried in such a position as to be readily available for use
 - (i) in cases of motor hackney carriage provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. Every proprietor of a motor hackney carriage shall cause the same to be provided with a taximeter so constructed attached and maintained as to comply with the following requirements that is to say: -
- (a) If the taxi meter is fitted with a flag or other device bearing the words “FOR HIRE”
 - (i) the words “FOR HIRE” shall be exhibited on each side of the flag of the flag or other device in plain letters at least one and a half inches in height and the flag or other device shall be capable of being locked in a position in which the words are horizontal and legible
 - (ii) when the flag or the other device is so locked the machinery of the taximeter shall not be in action and the means of bringing it into action shall be by moving the flag or other device so that the words are not conveniently legible

- (b) If the taximeter is not fitted with a flag or other device bearing the words "FOR HIRE"
 - (i) the taximeter is not fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" or other indication that the vehicle has been hired to appear on the face of the taximeter
 - (ii) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate of fare which the proprietor or driver is entitled to demand and take in pursuance of the byelaw in that behalf for the hire of the carriage by distance
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare record thereon
- (e) the taximeter shall be so placed that all letters and figures on the face thereof may be at all times plainly visible to any person being conveyed in the carriage and for the purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring
- (f) the taximeter and all fittings thereof shall be affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking damaging to permanently displacing the seals of other appliances

5. Every proprietor of a motor hackney carriage provided with a taximeter not fitted with a flag or other device bearing the words "FOR HIRE" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements that is to say:-

- (a) the sign shall bear the words "FOR HIRE" in plain letters at least one and a half inches in height
- (b) the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the vehicle whether or not the vehicle is for hire

PROVISION REGULATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR SEVERAL EMPLOYMENTS AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES

6. Every driver of a motor hackney carriage shall:-

- (a) if the taximeter is fitted with a flag or other device bearing the words "FOR HIRE"
 - (i) when standing or plying for hire keep such flag or other device locked in the position in which the words are horizontal and legible
 - (ii) as soon as the carriage is hired by distance and before commencing the journey bring the machinery of the taximeter into action by moving the flag or other device so that the words are not conveniently legible and keep the machinery of the taximeter in action until the termination of hiring
- (b) if the taximeter is not fitted with a flag or other device bearing the words "FOR HIRE"
 - (i) when standing or plying for hire keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter and operate the sign provided in pursuance of byelaw 5 so that the words "FOR HIRE" are clearly and conveniently legible by persons outside the carriage
 - (ii) as soon as the carriage is hired whether by distance or by time or at any time when the carriage is not available operate the said sign so that the words "FOR HIRE" are not conveniently legible by persons outside the carriage
 - (iii) as soon as the carriage is hired by distance and before commencing the journey, bring the machinery of the taximeter into action by moving the key or other device fitted for the purpose so that the words "HIRED" or other indication that the vehicle has been hired is legible on the face of the taximeter, and the machinery of the taximeter in action until the termination of the hiring
- (c) cause the dial of the taximeter to be properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972 and also at any other time at the request of the hirer

7. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto
8. The driver of a hackney carriage shall, when plying for hire in the street and not actually hired:-
 - (a) proceed with reasonable speed to one of the hackney carriage stands appointed by the Authority under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 for his particular class of vehicle;
 - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at the stand in Front Street, Tynemouth (at eastern end of the parking area in the centre of the carriageway opposite the junction with Hotspur Street) if the same is not already occupied by the full number of carriages authorised to occupy it, station the carriage obliquely to the line of the carriageway in the direction indicated by white lines painted upon the carriageway and on one of the vacant spaces indicated by such white lines; and
 - (d) on arriving at the stand other than one referred to in paragraph (c) above:-
 - (i) if the stand is not already occupied by the full number of carriages authorised to occupy it, station the carriage or carriages on the stand and so as to face the same direction; and
 - (ii) from time to time when any other carriages immediately in front is driven off or moved forward causing his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward
9. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
10. If a badge has been provided by the Authority and delivered to the driver of a hackney carriage, either with the licence granted to him by the Authority or afterwards, he shall when standing, plying for hire and when hired, wear that badge in such position and manner as to be plainly and distinctly visible.
11. Every driver of a hackney carriage so constructed as to carry luggage shall when requested by any person hiring or seeking to hire the vehicle:-
 - (a) convey a reasonable quantity of luggage
 - (b) afford reasonable assistance in loading and unloading
 - (c) afford reasonable assistance in removing it to or from the entrance to any house, station or place, at which he may take up or set down such a person
12. The proprietor or driver of a hackney carriage shall at all times when standing, plying for hire and when hired, conduct himself in an orderly manner, and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
13. Every proprietor of a hackney carriage who shall knowingly convey in the carriage the dead body of any person shall immediately thereafter, notify the fact to the Chief Environmental Health Officer of the Authority.
14. A driver or proprietor of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any persons to hire such carriage and shall not make use of the services of any other person for this purpose.
15. A proprietor of a hackney carriage shall not convey or permit to convey in such carriage any greater number of persons than the number of persons specified by the Authority which number shall be legible marked or painted on the plates required by Byelaw 2(a). For the purpose of this byelaw two children each under the age of 12 years may be regarded as one person.
16. Every driver of a hackney carriage shall at all times when standing, plying or driving for hire when required by any police constable or any person hiring such carriage produce a copy of these byelaws for the perusal and inspection of such constable or person.
17. The driver of a hackney carriage shall not at anytime when driving for hire, smoke tobacco or any like substance without the permission of the person hiring and being conveyed in such carriage.

PROVISION FOR SECURING THE DUE PUBLICATION OF FARES

18. (a) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Authority, the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time.
- (b) Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand or take a fare greater than that recorded on the face of the taximeter save for any extra charges authorised by the Authority which it may not be possible to record on the face of the taximeter.
- (c) The proprietor of a hackney carriage shall:-
- (i) cause a statement of the fares from time to time fixed by the Authority under the provisions of Section 65 of the Local Government (Miscellaneous Provisions) Act, 1976 to be painted or marked on the inside of the carriage, or on a place fixed thereto in clearly distinguishable letters and figures; and
 - (ii) renew such letters and figures as often as is necessary to keep them clearly visible
- (d) The proprietor of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

PROVISIONS SECURING THE SAFE CUSTODY AND REDELIVERY OF ANY PROPERTY ACCIDENTALLY LEFT IN HACKNEY CARRIAGES AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF

19. The proprietor or driver of a hackney carriage shall immediately after termination of any hiring or as soon as practicable thereafter and before the next hiring, carefully search the carriage for any property that may have been accidentally left therein.
20. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him
- (a) carry it within twenty four hours, if not sooner claimed by or on behalf of its owner, to the office of the Superintendent of Police at North Shields, Wallsend or Whitley Bay and leave it in the custody of the officer in charge on his giving a receipt for it,
 - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the nearest office of the Superintendent of Police referred to in Byelaw 22(a) whichever is the greater) but not more than five pounds.

SPECIAL PROVISIONS IN RELATION TO HACKNEY CARRIAGES DRAWN BY ANIMALS

21. The driver of a hackney carriage drawn by any animal or animals shall, while standing, ply or driving for hire, cause every part of the harness of the animal or animals drawing the carriage to be kept in order, so that the animal or animals shall be properly and securely attached to the carriage, and under due control.
22. The proprietor or driver of a horse-drawn hackney carriage shall not, in any street, feed or allow to be fed any horse harnessed or otherwise attached to such carriage, except with food contained in a proper bag or other receptacles suspended from the head of such horse or from the centre pole of the carriage, or which is held in and delivered with the hand of the person feeding such horse.
23. The proprietor or driver of a hackney carriage shall not while standing, plying or driving for hire, drive or allow to be driven, or harness or allowed to be harnessed to the carriage any animal in such condition as to expose any person conveyed or being in such carriage, or any person traversing any street, to risk of injury.
24. The distance to which the driver of a hackney carriage drawn by any animal or animals may be compelled to take passengers shall be any distance along the sea front between Feathers Caravan Site, Whitley Bay to the North, and the Haven, Tynemouth to the south, provided that, on journeys from south to north, this shall include such deviations from the Sea Front Highway along Park Avenue and Park Road, Whitley Bay as are required by the Whitley Bay one way circulatory System.

25. The following provisions shall not apply in respect of horse drawn hackney carriages:-

Byelaws 3(a), (b), (c), (d), (e), (g) and (i), 4, 5, 6, 7 and 12.

26. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding fifty pounds in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

PASSENGER GUIDANCE

The Authority is responsible for licensing hackney carriages, private hire vehicles, their drivers and private hire operators within the Borough of North Tyneside. The primary concern of the Authority is the safety of the public.

Vehicles

The Authority licences two types of vehicle: Hackney Carriages – also known as taxis or cabs and Private Hire Vehicles.

Either vehicle must only be driven by drivers who are also licensed by North Tyneside Council. Before a vehicle is licensed the vehicle must be of an approved type and must meet certain, minimum specifications. It undergoes a thorough inspection at the Authority's Test Station at Killingworth (which includes an MOT) and must be appropriately insured. Vehicles over four years of age undergo an additional safety check every 6 months.

Hackney Carriages

Hackney Carriages licensed by North Tyneside Council can be flagged down in the street (only within the North Tyneside district) and they can also wait on one of the many official taxi ranks in the Borough. They can also be pre-booked.

Hackney carriages must:

- be black in colour,
- display a white licence plate on the rear of the vehicle showing the licence number, description of the vehicle including the registration number, maximum number of passengers that can be carried and contact details to make a complaint,
- be fitted with a roof-sign which must be illuminated when available to hire,
- be fitted with an operating taximeter which must be sealed and must be used during each hiring to record the fare,
- not charge more than the fare displayed on the meter,
- display the Authority's maximum Hackney Carriage fare tariff in a prominent position in the vehicle,
- display a white decal on each front door showing the licence number,
- display a disc in the top left-hand corner of the windscreen showing the licence number, the maximum number of passengers that can be carried and contact details to make a complaint,

Private Hire Vehicles

Private Hire Vehicles can only be pre-booked in advance via an Operator (they cannot be flagged down or wait in the street or wait on a rank). They are not subject to the Council's maximum fare tariff and the cost should therefore be agreed before the start of your journey.

Private Hire Vehicles must:

- not be black in colour, or any colour resembling black,
- display a yellow licence plate on the rear of the vehicle showing the licence number, description of the vehicle including the registration number, maximum number of passengers that can be carried and contact details to make a complaint.
- not be fitted with a roofsign of any description,
- display a yellow decal on each front door showing the licence number.
- display a disc in the top left-hand corner of the windscreen showing the licence number, the maximum number of passengers that can be carried and contact details to make a complaint.

Private Hire Operators

These are licensed by the Authority to make provision for the invitation or acceptance of private hire bookings. Before a licence is issued an operator must undergo a criminal record check and provide a business plan setting how he/she intends to operate.

It is the responsibility of an operator to ensure that all vehicles and drivers working from the office are licensed. Operators are therefore required to maintain and make available for inspection various records relating to the operation of their business including lists of vehicles and drivers operated by them.

Drivers

The Authority issues two types of driver's licence depending on the type of vehicle the driver wishes to drive: Hackney Carriage and Private Hire. The criteria and qualifications for each are virtually identical.

Before a licence is issued an applicant must prove to the Authority that he/she is a 'fit and proper' person. This is done by:

- proving they have held a full UK or EEA driving licence for at least a year,
- undergoing a criminal record check,
- providing a Group 2 medical (which is the same standard as for bus and lorry drivers),
- pass a knowledge/locality test,
- prove a right to live and work in the UK,
- undergo training on preventing Child and Adult Exploitation,

Once an applicant has proven they are 'fit and proper' the Authority will issue a licence for up to 3 years. Two identity badges are also issued to the driver showing their photograph and the expiry date of the licence. One badge must be worn at all times when the driver is working in a position that is clearly visible to passengers; the other badge must be displayed on the dashboard of the vehicle.

Enforcement

The Authority employs Licensing Officers to undertake enforcement work and this includes investigating complaints and carrying out spot check inspections of vehicles both during the day and out of hours when the late night economy is active. Where non-compliance with conditions of licence or legislation is noted officers will follow this up with appropriate action. This may be by verbal advice or a warning, the issue of a notice requiring a vehicle defect to be remedied, suspension of a vehicle licence and in some cases prosecution of the driver and/or proprietor/operator.

Complaints

Using taxis and private hire vehicles is a safe form of transport and the vast majority of journeys take place without incident. If you do want to make a complaint about the conduct of a driver or the condition of a vehicle contact the Licensing Office by telephone (0191 6432165), by email at taxi.licensing@northtyneside.gov.uk or online via the Authority's website at www.northtyneside.gov.uk. To assist us please make a note of the licence/plate number of the vehicle, the name or description of the driver and the date, time and place of the incident.

Refusals

A driver can refuse a fare with a reasonable excuse, for example a risk of physical violence, passengers who are abusive, racist, sexist, foul mouthed, extremely drunk, refuse to stop smoking, likely to vomit or have vomited over themselves etc.

Assistance dogs

A driver can only refuse to carry an assistance dog if he/she has a medical exemption certificate issued by the Authority. This must be shown on request.

Overcharging

It is an offence for a driver to charge a person with a disability, for example a wheelchair-user, more for a journey than any other comparable booking.

Staying safe

- If possible, pre-book your return journey before going out.
- Let a third party know the details of your journey.
- Check the vehicle has a rear licence plate and door decals, otherwise do not get in the vehicle.
- Make a note of the licence number displayed on the plate, decal and windscreen disc.
- Ask to see the driver's badge, make a note of his/her name and number.
- Do not get in the vehicle if the driver is unable to show you a badge or if it has expired.
- If you are on your own, sit in the back behind the driver.

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Amendments to Hackney Carriage and Private Hire Licensing Policy 2021

Reference/Chapter/Paragraph Header	Amendment
Executive Summary	Reworded to include reference to National Standards
List of Appendices	Appendix J added – Staying Safe – Guidance for Passengers
Chapter 1 – Introduction	
Hackney Carriage and Private Hire Licensing	Number of PH Operators included
Powers and Duties	Reference to Statutory Guidance issued by the Department for Transport in July 2020 added (throughout document)
Implementation and Review	Reference to annual performance of policy reviewed added
Consultation	List of consultees increased
Related Legislation and Strategies	Reference to Statutory Guidance added
Chapter 2 – Vehicles	
Criminal Record Checks	Information added in connection with introduction of Basic DBS criminal record checks for vehicle proprietors
Decision Making	New para inserted re. decision making: Enhanced DBS v Basic DBS
New Applications and Replacement Vehicles	Basic DBS certificate added to required documents Information added concerning incomplete applications and grandfather rights
Renewal Applications	Basic DBS certificate added to required documents
Transfer of interest	Para added re. requirement of any new proprietor to provide a Basic Disclosure of convictions
Licence Plate, Windscreen Disc and Door Decals	Decals not to be removed on ad hoc basis
Chapter 3 – Drivers	
Licences	Para on awareness of Child Sexual Abuse and Exploitation added
	Para added with reference to decision making/threshold of 'fit and proper person' test.
DBS process	Para added re. suspension of licence.
Manual Certificates	Information added on DBS Manual Certificates and requirement of drivers to

	provide Annual Declaration of convictions.
Referrals to the Disclosure & Barring Service (DBS)	Information added on the Authority making a referral to the DBS and the police following refusal/revocation of driver's licence.
Child Sexual Abuse and Exploitation	Para added regarding hackney carriage and private hire licensing regime must protect the vulnerable including children.
New Applications	DBS Update Service Mandate form added to list of required documents
Renewals	Para added regarding reminders for renewals being sent.
	DBS Update Service Mandate form added to list of required documents
	Evidence provided to confirm subscription to the DBS Update Service added to list of required documents Reference new DBS every 3 years removed due to update service
Driver Identity Badges	New para added regarding issue of 'Dual Identity Badges'
Chapter 4 – Operators	
Requirements and obligations	New paras added regarding 'fit and proper person' criteria following issue of Statutory Guidance.
	Para added on additional information applicants/operators must provide.
	Para added referencing licence condition to keep a register of all staff that take bookings
Criminal Record Checks	Reference to operators posing no threat to the public and have no links to serious criminal activity added.
Booking/Dispatch Staff	New information following issue of Statutory Guidance on requirement of operators to maintain register of booking staff and confirmation they have had sight of Basic DBS cert for staff.
Application Procedure	Separate paras for New Application and Renewal procedures created.
Renewals	Information added regarding process and required documentation
Incomplete applications	Information added on process.
Use of Passenger Carrying Vehicles/Drivers	New para added regarding use of Passenger Carrying Vehicles and drivers by operators.
Material Change in Circumstances	New para added requiring operators notify the Authority in advance of any proposed changes.
Sub-Contracting and Outsourcing Bookings	New para added on sub-contracting arrangements.

Chapter 5 – Fares	
Additional Tariffs	New para added regarding additional fares programmed to taximeters.
Chapter 6 - Fees	
Surrender of Licence Refund Payments	New para added on how refunds are calculated.
	New para on operator refunds
Chapter 7 - Convictions, Cautions, Conduct, Fixed Penalties, Community Resolutions & Medical Fitness	
Offences	Periods free of conviction changed in line with Statutory Guidance.
Sexual and Indecency Offences	Reference to Sex offenders Register and barred lists added.
Exploitation	Para added with reference to offences relating to abuse, exploitation, grooming etc.
Drug Testing	Para added in relation to requirements for drug testing
Chapter 8 - Enforcement and Discipline	No amendments
Chapter 9 - Regulation & Review Committee	No amendments
Chapter 10 - Hackney Carriage Stands	No amendments
Chapter 11 - Complaints Procedure	No amendments
Appendices	
Appendix B - Conditions attached to a Hackney Carriage Proprietors Licence and Private Hire Vehicle Proprietors Licence	
15 - Hackney Carriage and Private Hire Licensing Policy	Reference to proprietors acting in accordance with the policy added.
Appendix C – Vehicle Testing Arrangements	Inclusion of odometer
Appendix H - Private Hire Operators Licence Conditions of Licence	Conditions updated to reflect policy changes above (eg maintaining register of booking staff, Basic DBS for booking staff, use of PCV's etc)
	Particulars of booking records amended to reflect Statutory Guidance
Appendix J – Passenger Guidance	New guidance document created.
General	Re-numbering of paragraphs

North Tyneside Council Report to Cabinet Date: 24 January 2022

Title: Compulsory Purchase Order in Respect of Land at former Tyne Brand Factory, North Shields

Portfolio(s): The Deputy Mayor
Finance & Resources

Cabinet Member(s): Councillor Carl Johnson
Councillor Martin Rankin

Report from Service

Area: Regeneration and Economic Development

Responsible Officer: John Sparkes, Director of Regeneration and Economic Development (Tel: (0191) 643 6091)

Wards affected: Tynemouth

PART 1

1.1 Executive Summary:

North Shields Masterplan was approved by Cabinet on 25th January 2021. The plan identified several housing sites including the redevelopment of the former Tyne Brand factory site as key to the regeneration ambitions for North Shields.

The site is currently in multiple ownership (including Authority owned land) which can be seen on the plan included at Appendix 1. The former industrial site enjoys a prime location at the gateway to the Fish Quay, an area which has undergone considerable regeneration in recent years. The site is therefore well placed to bring forward new homes to the town.

The site has remained undeveloped since the closure of a food canning factory on the site in the late 1970s. Despite several attempts by private developers to assemble the land necessary, the market has failed to bring forward a viable development for the site. It is therefore considered appropriate for the Authority to take steps to acquire the site to bring it into public ownership and secure its onward development.

The Authority will seek to purchase the interests in private ownership by agreement however should this not be possible, it may be necessary to use Compulsory Purchase Powers (CPO).

This report outlines the CPO proposal in respect of the various land interests at Tyne Brand, North Shields. Those interests are within the area shown by the dark outline plan attached as Appendix 1 (the "Order Land").

1.2 Recommendation(s):

It is recommended that Cabinet:-

- i. Authorises the Chief Executive in consultation with the Director of Commissioning and Investment, the Mayor, the Deputy Mayor, the Director of Resources, the Director of Law and Governance and the Director of Regeneration and Economic Development to:-
 - a. Invoke Compulsory Purchase powers under section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of the former Tyne Brand site, North Shields, within the area in dark outline on the plan attached at Appendix 1 should the site not be acquired by negotiation.
 - b. agree a final “Statement of Reasons” that will be submitted with the Order to the Secretary of State for Levelling Up, Housing and Communities providing the justification for pursuing a Compulsory Purchase Order based on the information given in Section 1.5 of this report;
 - c. agree a “Scheme” for the onward development of the site; and
 - d. take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order, including the conduct of a Public Inquiry (if appropriate) to obtain confirmation of the Order by the Secretary of State.
- ii. agrees that the Order be named “Former Tyne Brand site, North Shields Compulsory Purchase Order 2022”.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 28th October 2021.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2021-2025 Our North Tyneside Plan:

A thriving North Tyneside:

- We will regenerate the high streets of North Shields and Wallsend and in addition to the Masterplan for North Shields, we will bring forward Masterplans’ for Wallsend and Whitley Bay town centre areas.
- We will reduce the number of derelict properties across the borough.

A secure North Tyneside:

- We will provide 5000 affordable homes.

1.5 Information:

1.5.1 Background

The former **Tyne Brand** factory site is a complex development site in multiple ownership.

Over the years there have been a number of reported efforts by private developers to purchase those land interests with a view to bringing forward housing development on

the site. However, these have been unsuccessful and the site has remained an eyesore and undeveloped for in excess of 40 years.

Following the approval of the North Shields Master Plan in January 2021 and with no realistic prospect of the site being brought forward for development without public sector intervention an application was made to the North of Tyne Brownfield Housing Fund.

Grant funding has been secured to assemble and remediate the site on the basis of adopting a staged approach to achieving its onward redevelopment. The first stage of this approach includes two key deliverable outcomes; these are to develop an Acquisition Strategy and a Demolition/Site Clearance Strategy by December 2021.

An Acquisition Strategy – will set out how the Authority can acquire the remaining interests on the site. In the first instance this will be via negotiation with those landowners willing to engage. However, in order that the land interests can be acquired in a timely manner the potential use of CPO powers must be a consideration.

A Demolition/Site Clearance Strategy – will set out how the demolition and site clearance of as much of the site as feasible to facilitate safe access for more detailed Stage 2 site investigations can be achieved.

Use of Compulsory Purchase Powers (CPO)

Under section 226(1)(a) of the Town and Country Planning Act 1990 a local authority has a power to acquire compulsorily any land in their area in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

In order to exercise such powers the Authority must be satisfied that the proposed development, redevelopment or improvement is likely to contribute towards any of the following objectives:

- the promotion or improvement of the economic well-being of their area;
- the promotion or improvement of the social well-being of their area; or
- the promotion or improvement of the environmental well-being of their area.

The site is part of a wider regeneration plan which is a valid reason to use CPO powers.

To use its CPO powers the Authority must also demonstrate a number of further requirements:

A scheme for the site – the site has been problematic for several years and is an ideally placed gateway housing site for delivery of the Authority's Masterplan ambitions. As such, it is anticipated that once the site is assembled and remediated, suitable development options, including an appropriate planning application, will be brought forward. Housing concepts were shared during the initial Masterplan engagement exercise and which we have discussed with some of the landowners. It is proposed that wider Statement of Reasons will confirm the work required to halt the further decline of the site, its impact on the immediate locality and an agreed housing development scheme.

A budget available to execute it –initial investment from the North of Tyne Combined Authority of £4.3m is being secured from the Department for Levelling Up, Housing and Communities (DLUHC) Brownfield Housing Fund to bring this site forward for

development. As noted above, the availability of a fully assembled and remediated site in this desirable location is likely to lead to significant developer interest in due course. The wider “Statement of Reasons” will confirm the funding model most appropriate for the onward redevelopment of the site before making a CPO.

Tried all other ways to secure the site by agreement - the proposed approach to reach negotiation first is set out above in line with the Acquisition Strategy.

The “Statement of Reasons” will be submitted for formal approval in accordance with Recommendation iii (a) of this report.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To agree the recommendations at paragraph 1.2 of this report.

Option 2

Not to agree the recommendations at paragraph 1.2 of this report. Cabinet may decide not to approve the recommendation to make the CPO and request that officers to look at other options available to the Authority.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is the recommended option as this will provide a clear legislative process for the Authority to secure ownership of the site, stop its further decline and negative impact on that locality and prepare the land for onward development.

1.8 Appendices:

Appendix 1: Dark outline plan of Tyne Brand Site, North Shields “The Order Land”.

1.9 Contact officers:

Niall Cathie, Strategic Property Manager, Tel: 643 6517.

Paul Dowling, Regeneration & Transport Service Manager, Tel: 643 6428.

Rob Peach, Project Co-ordinator, Housing Strategy, Tel: 07974 576848

Steve Jackson, Senior Estates Surveyor, Tel: 07840 647641.

Cathy Davison, Principal Accountant, Tel: 643 7038.

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) North Shields Town Centre and Fish Quay Masterplan; Cabinet, 25th January 2021.

2.1 Finance and other resources

As stated in section 1.5.1 above, £4.3m of funding has been secured from the North of Tyne Combined Authority Brownfields Housing Fund to enable the purchase of the land interests within the site, complete site investigation and demolish existing buildings. Officers consider that up to the maximum £4.3m is sufficient for these activities. Once the Grant Funding Agreement is received, a report will be taken to Investment Programme Board for approval and the budget included in the Authority's Investment Programme.

Funding to support the onward development of the site has not been confirmed, however the acquisition and remediation of the site will provide for an attractive development opportunity for the provision of new homes. The wider "Statement of Reasons" will confirm the funding model most appropriate for the onward redevelopment of the site before making a CPO. Details of the final "Scheme" and the full financial implication of it will be considered when final approval for the CPO is sought in accordance with Recommendation iii (b) of this report.

2.2 Legal

Under section 226 (1)(a) of the Town and Country Planning Act 1990, a local authority has a power to acquire compulsorily any land in their area in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

Consideration has also been given to the Acquisition of Land Act 1981 with regard to the procedures which apply to compulsory acquisition. The Compulsory Purchase Act 1965 governs post confirmation procedures and the Land Compensation Act 1961 governs the amount and assessment of compensation as well as The Local Government (Miscellaneous Provisions) Act 1976 governing the grant of new rights.

Once a CPO is made and the relevant notice has been served, a period of at least 21 days is allowed for objections. If valid objections are raised and not withdrawn, the Secretary of State must call a public inquiry. Following the inquiry, the inspector appointed will report to the Secretary of State. The Secretary of State will determine whether or not to confirm the CPO.

Market value for the land will normally be payable under the terms of any confirmed CPO.

Under the legislation, an owner of adjoining land may serve a blight notice if they consider that the CPO Scheme will have a negative impact on the sale price of adjoining land. If a notice is received, the Authority may serve a counter notice to object to the claim of blight. Where such a notice is upheld, the Authority would be required to compensate the owner of the blighted land.

The risk of a blight notice is considered to be negligible with regard the former Tyne Brand site given its current condition and that the objective of the CPO is to improve the condition of the site in preparation for onward development.

Legal representatives will be part of the Project Team to ensure the CPO process is followed and any issues dealt with effectively. Specialist external legal advice on the CPO process will also be procured. Subsidy Control advice is ongoing in relation to the Brownfield Housing Fund schemes.

CPO Guidance

The government recognises in its Guidance on Compulsory Purchase Process and The Crichton Down Rules that if acquiring authorities wait for negotiations to break down, this can have detrimental impact on the timing of delivery of projects. Therefore, depending on when the land is required the Guidance considers it sensible for an acquiring authority to plan a compulsory purchase as a contingency measure; and initiate formal procedures.

The CPO Guidance expressly recognises that such steps help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations. The CPO Guidance requires acquiring authorities to attempt to acquire land by agreement before embarking on the CPO process, although it is recognised that the schemes involving the acquisition of a number of interests, it is sensible to run the CPO process in parallel with ongoing negotiations. This ensures that the CPO progresses on the basis of a compelling case in the public interest, that there are no planning, funding or other legal impediments, that all reasonable attempts to acquire all interest by agreement have not been successful and for any interference with the human rights of those with an interest in the land affected. The Guidance also states that in considering whether or not to confirm a CPO, the Secretary of State will have regard to the extent to which the purpose for which the land is being acquired fits with the adopted Local Plan for the area.

On the basis of legal advice and the Guidance, officers are of the view that such a compelling case can be demonstrated.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

In accordance with the delegation in the Cabinet Report of 25th January 2021, the following Officers and Elected Members have been consulted on the proposed CPO route for the Tyne Brand site and are supportive:-

- The Deputy Mayor in his role as Cabinet Member for Regeneration.
- The Cabinet Member for Finance & Resources in his role as a member of Investment Programme Board (IPB).
- The Director of Resources and the Director of Regeneration responsible for the oversight and direction of the programme.
- The Strategic Property Group agreed on 20th October 2021 to propose this as a recommendation to Cabinet.
- Ward Councillors will be consulted and regularly briefed regarding this matter and the intention to progress with a CPO.

2.3.2 External Consultation/Engagement

In the autumn of 2020, the Authority's draft North Shields Masterplan was subject to consultation with residents, businesses and other stakeholders in order to seek their views on the future of the Town Centre. These views were considered by Cabinet in January 2021 when it took the decision to proceed with the Masterplan, its projects and the acquisitions required. The feedback is set out in the January 2021 Cabinet report which is referenced at 1.10 above and available at the office of the author or on the Authority's website.

Further public consultation about the plans for the site will be undertaken as part of the planning approval process for the proposed scheme when it emerges.

2.4 Human rights

The Human Rights Act 1998 places direct obligations on public bodies such as the Authority to demonstrate that the use of CPO powers is in the public interest and that the use of such powers is proportionate to the ends being pursued.

There must be a balancing of the public interest and the individual's rights and any interference with these rights must be necessary and proportionate. "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim.

In deciding whether to proceed with the recommendations, Cabinet needs to consider the extent to which the decision may impact upon the Human Rights of the landowners and residents and to balance these against the overall benefit to the community the CPO will bring. It is considered that interference with the rights under Article 8 and Article 1 of Protocol 1 of the Human Rights Act is justified in the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

In respect of the former Tyne Brand site, the use of CPO powers will only be required if acquisition cannot be secured by agreement. If a CPO is required, then further advice on compliance with the ECHR and Human Rights Act 1998 will be addressed in the legal advice on the CPO process.

2.5 Equalities and diversity

Section 149 Equality Act 2010 creates a public sector equality duty. A public authority must, in the exercise of its functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have given consideration and paid due regard to its Public Sector Equality Duty with regard to the decision to proceed and the possibility of mitigating any adverse impact on a protected group or to take steps to promote equality of opportunity. Officers of had regard to the Public Sector Equality Duty in the assessment of the case for making a CPO and that those with an interest in the Order Land and which are included in the CPO and how they will be affected.

An Equality Impact Assessment will be undertaken as the plans for the site are developed along with consultation.

2.6 Risk management

The risks associated with the acquisition of the Tyne Brand site have been considered in consultation with the Authority's Senior Risk Adviser and a Strategic Risk Register is in place for the delivery of the Masterplan.

Should Cabinet not approve the recommendations as set out in paragraph 1.2, the Authority may be curtailed in acquiring the ownerships necessary to improve the condition of the site and leave it vulnerable to further decline with no realist prospect of improvement in the foreseeable future. There will remain the ongoing risk health and safety risks inherent in such a site.

2.7 Crime and disorder

Securing ownership of the site will significantly reduce the decline and negative impact on the local community particularly in terms of attracting anti-social behaviour. Crime and disorder implications will also be considered as part of the planning process for the subsequent redevelopment of the site.

2.8 Environment and sustainability

The current condition of the site is poor and redevelopment will result in a general improvement in the amenity of the surrounding area. Environment and sustainability implications will be considered as part of the planning process, both for the clearance of the site and its subsequent redevelopment.

PART 3 - SIGN OFF

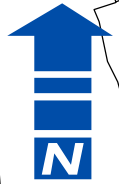
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- Cabinet Member(s) X
- Chief Finance Officer X
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Working in partnership with
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Tyne Brand Site
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